

TC 99-111
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Lance J.M. Steinhart
Attorney At Law
6455 East Johns Crossing
Suite 285
Duluth, Georgia 30097

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Also Admitted in New York
and Maryland

Telephone: (770) 232-9200
Facsimile: (770) 232-9208

November 30, 1999

VIA FEDERAL EXPRESS

Mr. William Bullard
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501-5070
(605) 773-3201

Re: MVX.COM Communications, Inc.

Dear Mr. Bullard:

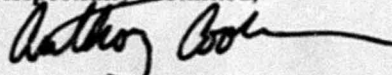
Enclosed please find one original and ten (10) copies of MVX.COM Communications, Inc.'s Amended Application for Registration of a Telecommunications Company to Provide Local Exchange Service.

In order to expedite the processing of this application, I would like to suggest that all requests for information by the analyst be made by either telephone or facsimile. I will make every effort to respond on the day of the request.

I have also enclosed a check in the amount of \$250.00 payable to the "South Dakota Public Utilities Commission" for the filing fee and an extra copy of this cover letter to be date stamped and returned to me in the enclosed self-addressed prepaid envelope.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Anthony Cooke for
Director of Government Affairs for
Lance J.M. Steinhart
Attorney for MVX.COM Communications, Inc.

*Returned check
on 12/1/99.*

Enclosures

cc: Mr. Edward A. Brinskele (w/enc)

**AMENDED APPLICATION FOR REGISTRATION
OF MVX.COM COMMUNICATIONS, INC.
FILED WITH THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

| | | |
|-------------------------------|---|------------|
| IN THE MATTER OF THE |) | |
| AMENDED APPLICATION OF |) | |
| MVX.COM COMMUNICATIONS, INC. |) | |
| FOR AN ORDER AUTHORIZING |) | Docket No. |
| THE REGISTRATION OF APPLICANT |) | |
| AS A TELECOMMUNICATIONS |) | |
| COMPANY TO PROVIDE |) | |
| LOCAL EXCHANGE SERVICE |) | |

APPLICATION

Application is hereby made to the South Dakota Public Utilities Commission for an Order authorizing MVX.COM Communications, Inc., ("MVX.COM" or "Applicant") to register as a telecommunications company to provide local exchange service within the State of South Dakota. The following information is furnished in support thereof:

1. Name, Address and Telephone Number of Applicant

MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, California 94945
(415) 893-7180
(888) 685-8486 (Customer Service)
Federal Tax ID # 68-0426815

The Applicant will provide services under the name MVX.COM Communications, Inc.

All inquiries regarding regulatory matters should be addressed to:

Lance J.M. Steinhart, Esq.
6455 East Johns Crossing, Suite 285
Duluth, Georgia 30097
(770) 232-9200
(770) 232-9208 (Fax)

All inquiries regarding complaints against the company should be addressed to:

Jeffrey Richards
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, California 94945
(888) 685-8486 (Customer Service)

2. Registered Agent

The name and address of the Applicant's registered agent are:

National Registered Agents, Inc.
300 South Phillips Avenue, Ste. 300
Sioux Falls, SD 57102

3. Description of the Applicant

Applicant was incorporated in California on February 17, 1999 with perpetual duration. Applicant has authority to transact business as a foreign corporation in the State of South Dakota and a copy of a Certificate of Authority issued by the Secretary of State is attached hereto as Exhibit A. A copy of the Applicant's Articles of Incorporation is attached hereto as Exhibit B. MVX.COM's predecessor, MVX Communications, LLC, was issued a Certificate of Authority to Conduct Business as a Telecommunications Company Within the State of South Dakota, effective April 13, 1998, in Docket No. TC98-054.

MVX.COM has been in the telecommunications business since 1997. MVX.COM is a leading provider of internet-based communications management services to the corporate marketplace. Since the introduction of its proprietary, web-based communications management tool, InterAct, the Company has established itself as an innovative new entrant in the rapidly-growing internet e-commerce market. InterAct delivers an unprecedented level of control over the cost of communications services while eliminating the need to deal with multiple service vendors. MVX.COM launched its sales efforts in September of 1998, and has received an overwhelmingly positive response within the California market.

MVX.COM's leading-edge service offering enables its clients to receive one bill, from one point of contact, for all communications services. Through partnerships with leading domestic and international service providers, the Company offers a comprehensive, online suite of communication products, including local, long distance, calling card, integrated services T-1

access, DSL, ISDN, frame relay, paging and cellular, as well as dial-up and dedicated internet services. The Company's primary source of revenue is through the retail sale of services purchased at wholesale rates from each of its service providers. The Company also derives income through recurring fees associated with the management of its clients' services, location fees for usage of the InterAct system and fees for a variety of value-added services. Such services include 24x7 network monitoring, maintenance, repair dispatch, and technical support, each of which can effectively be provided through the InterAct system.

The Company's proprietary web-based InterAct system enables customers to view account information, place service orders, and break out cost accounting data specific to each business, location, department, or individual. The provision of real time information online, through both web-based and e-mail interfaces, enables the Company to limit its overhead by reducing customer dependence on personnel-based routine customer care.

The Company's ability to successfully partner with leading service providers is a core element of its strategy. In addition to Pacific Bell/Southwestern Bell, the Company has agreements in place with MCIWorldCom, Sprint, Cable & Wireless, T-Net, Star Telecom, Bell South, Level 3, Epoch Internet, CellularOne, NorthPoint Communications, Sprint PCS, AT&T Wireless, Nextel, and GTE Wireless.

The Company is currently focusing its sales efforts within the State of California, with projected expansion into other states over the course of 1999. The Company has established sales offices in Novato, Danville, Sacramento, and San Jose, California, with plans to expand to San Diego and Orange County. The Company's direct sales force and account management team employ a mix of personnel with experience at Centex, MFS, ICG, Sprint, MCIWorldCom, and other communications service providers.

4. Facilities

Applicant does not own or maintain any transmission facilities or switching equipment in the State of South Dakota. The Applicant will provide services through resale only. Applicant intends to utilize the facilities, network, and back office support provided by incumbent local exchange carriers ("LECs"). All equipment maintenance will be provided by the underlying

LEC. Customer complaints and inquiries will be handled by customer service staff at the company's toll-free number which will be available 24 hours per day, seven days per week.

5. Stockholders

The names and address of the sole stockholder of Applicant are as follows:

| Name and Address | Shares Owned | Percentage of all Shares Issued and Outstanding and Voting Control |
|---|--------------|--|
| MVX.COM 100 Rowland Way, Suite 145 Novato, California 94945 | 100,000 | 100% |

6. Officers and Directors

The names and addresses of the officers and directors of Applicant are as follows:

Officers

| | |
|------------------|-------------------------|
| Edward Brinskele | President & CEO |
| Kenneth Holmes | Chief Financial Officer |
| Jeffrey Richards | Secretary |
| William Horwich | Asst. Secretary |

Directors

Edward Brinskele
Jeffrey Richards
Thomas Rice

All of the above-named individuals can be reached at MVX.COM Communications, Inc., 100 Rowland Way, Suite 145, Novato, California 94945.

7. Corporate Ownership

The name and address of any corporation, association or similar organization holding a five percent (5%) or greater ownership in the Applicant is as follows:
See 5 above.

8. Subsidiaries owned or controlled by Applicant

None

9. Description of Services

Applicant is a reseller which intends to offer all local services provided by the incumbent LECs. As a switchless reseller, Applicant has no points of presence in the State of South Dakota, thus Applicant neither owns, leases, nor operates any switching, transmission, or other physical facilities in the State of South Dakota, and no such facilities will be used by Applicant in providing service in the State of South Dakota. Rather, Applicant will be engaged in reselling services provided by facilities-based LECs within the State of South Dakota. Upon receiving certification, MVX.COM intends to provide all forms of intrastate local exchange telecommunications services including: (1) Basic Residential Services (Local Exchange Flat Rate, Measured Rate Service, operator access, etc.); (2) Residential Custom Calling and Class Features (call waiting, caller ID, call forwarding, etc.); (3) Basic Business Exchange Services; (4) Business Custom Calling and Class Features; (5) Adjunct Provided Features (voice messaging, etc.); and (6) Business and Residentially Ancillary Services (911, directory listing, directory assistance, etc.). MVX.COM seeks authority to resell local exchange services throughout the State of South Dakota in the areas served by any LECs in South Dakota that are not eligible for a small or rural carrier exemption pursuant to Section 251(f)(1) of the Federal Act. MVX.COM does not seek to provide resold services to customers in those small or rural territories. MVX.COM intends to provide customers with access to emergency services, operator services, interexchange services, directory assistance, and telecommunications relay service, through contractual relationships with its underlying local and interexchange carriers. MVX.COM intends to initiate service by the 3rd quarter of 2000.

The Applicant is currently authorized to provide interexchange service in all 48 contiguous states. Applicant or its predecessor has been authorized to provide local exchange service in Arizona, California, Colorado, Connecticut, Florida, Idaho, Illinois, Indiana, Iowa, Massachusetts, Montana, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, Texas, Washington and Wisconsin. Applicant has never been denied registration or certification

in any state and applicant is in good standing with the appropriate regulatory agency in the states where it is registered or certified. Applicant has no complaints filed against it by any state or federal regulatory commission.

10. Financial Qualifications

Applicant is financially qualified to provide intrastate local exchange telecommunications services within South Dakota. In particular, Applicant has adequate access to the capital necessary to fulfill any obligations it may undertake with respect to the provision of intrastate local exchange telecommunications services in the State of South Dakota. Applicant's Balance Sheet as of September 30, 1999, and Statement of Operations for the period ending September 30, 1999, are attached hereto as Exhibit C.

11. Tariff

Applicant hereby requests a temporary waiver of ARSD 20:10:32:03(13) to the extent it requires applicant to file a tariff with its application until such time as its negotiations for a resale agreement are complete.

12. Customer Billings and Customer Service

The Applicant intends to bill its customers directly utilizing information from the incumbent LECs. Applicant's toll-free number will be on all invoices and customer service will be provided in-house by the Applicant or by the LEC which services Applicant will resell. Applicant does not intend to have personnel located in the State of South Dakota.

13. Description of Marketing

Applicant intends to market its services primarily to small to mid-sized businesses. Applicant intends to get written authorization from the customer. The actual switch to

Applicant's local service will also depend upon the mechanisms set forth in its resale agreement with its underlying carrier (LEC). Applicant's initial target market will be the western United States. All sales personnel will have telecommunications service experience. Applicant intends to market through direct sales and through the Internet. Applicant does not intend to engage in multilevel marketing.

Applicant intends to get written authorization from each customer. The actual switch to Applicant's local service will also depend upon the mechanisms set forth in its resale agreements with its underlying carriers. Since applicant intends to provide interexchange prior to commencing local exchange service, Applicant initially will market local services only to current interexchange customers of the company.

14. Miscellaneous

Applicant does not intend to provide contracts for customers, but rather will provide service on a month to month basis in the same manner as the incumbent LECs. It is contemplated that customers will keep their present telephone number. All customers should have the option to be listed in a local directory which should be published by the incumbent LEC. Any 911 or telecommunications fund for the deaf surcharges will be collected in accordance with the mechanism set forth in Applicant's interconnection/resale agreement when finalized.

Applicant intends to only provide competitive services at competitive rates, therefore, cost support for rates is not required.

WHEREFORE, the undersigned Applicant requests that the South Dakota Public Utilities Commission enter an order granting this amended application to its Certificate of Authority authorizing Applicant to provide resold local exchange services.

DATED this 31 day of Nov, 1999.

MVX.COM Communications, Inc.

By: 

Lance Steinhart
Its Attorney

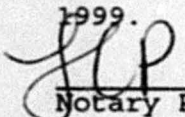
STATE OF CALIFORNIA

COUNTY OF SAN MATEO

Edward A. Brinskele, being first duly sworn, deposes and says that he is the President & CEO of MVX.COM Communications, Inc., the Applicant in the proceeding entitled above, that he has read the foregoing application and knows the contents thereof; that the same are true of his knowledge, except as to matters which are therein stated on information or belief, and to those matters he believes them to be true.


Edward A. Brinskele

Subscribed and sworn to before this 6th day of August, 1999.


Notary Public

My Commission expires: 11/1/2003



LIST OF EXHIBITS

- A - CERTIFICATE OF AUTHORITY**
- B - ARTICLES OF INCORPORATION**
- C - FINANCIAL STATEMENTS**
- D - PROPOSED TARIFF**

EXHIBIT A - CERTIFICATE OF AUTHORITY

MVX.COM Communications, Inc., has applied for a Certificate of Authority from the South Dakota Secretary of State Office. MVX.COM Communications, Inc., will submit the Certificate of Authority as soon as they receive one.

EXHIBIT B - ARTICLES OF INCORPORATION

State of California

2074425

SECRETARY OF STATE

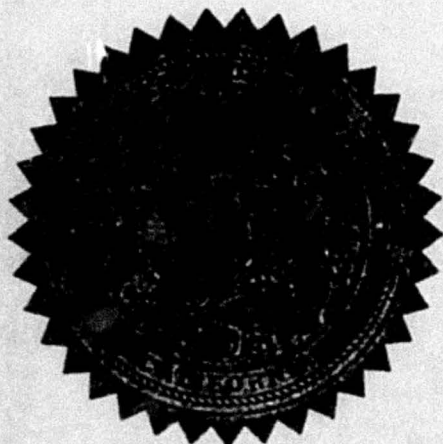


I, **BILL JONES**, Secretary of State of the State of California, hereby certify:

That the attached transcript has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this

FEB 17 1999



Bill Jones

Secretary of State

2074425

ENDORSED - FILED
IN THE OFFICE OF THE
SECRETARY OF STATE
OF THE STATE OF CALIFORNIA

**ARTICLES OF INCORPORATION
OF
MVX.COM COMMUNICATIONS, INC.**

FEB 17 1999

BILL JONES, SECRETARY OF STATE

**I.
NAME**

The name of this Corporation is MVX.COM COMMUNICATIONS, INC.

**II.
PURPOSE**

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 California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations Code.

**III.
AGENT FOR SERVICE OF PROCESS**

The name and address in the State of California of this Corporation's initial agent for service of process is:

William E. Horwich
Wendel, Rosen, Black & Dean, LLP
1111 Broadway, 24th Floor
Oakland, California 94607

**IV.
CAPITAL STOCK**

This Corporation is authorized to issue only one class of shares of stock, and the total number of shares which this Corporation is authorized to issue is 1,000,000.

**V.
LIABILITY OF DIRECTORS**

The liability of the directors of this Corporation for monetary damages shall be eliminated to the fullest extent permissible under California Law.

**VI.
INDEMNIFICATION OF AGENTS**

This Corporation is authorized to provide indemnification to its agents (as defined in

Section 317 of the California Corporations Code) through Bylaw provisions, agreements with agents, vote of shareholders or disinterested directors or otherwise, in excess of the indemnification otherwise permitted by Section 317 of the California Corporations Code, subject only to the applicable limits set forth in Section 204 of the California Corporations Code with respect to actions for breach of duty to this Corporation and its shareholders. Any repeal or modification of this Article VI shall only 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.

Date: February 17, 1999

William E. Horwich
WILLIAM E. HORWICH, Incorporator



EXHIBIT C - FINANCIAL STATEMENTS



Consolidated Balance Sheet
As of September 30, 1999
Unaudited

Assets

| | |
|---|--------------------------|
| Current Assets: | 8,281,581 |
| Cash | |
| Net Accounts Receivable, with allowance for doubtful accounts of \$27,000 | 644,961 |
| Inventories, at lower of cost (first-in, first-out method) or market: | 42,383 |
| Prepaid Expenses | 96,416 |
| Deposits | 322,557 |
| Total Current Assets: | <u>9,387,899</u> |
| Other Assets: | |
| Intangible Assets | 3,846 |
| Other Assets | 58,528 |
| Total Other Assets: | <u>62,374</u> |
| Property, Plant and Equipment, at cost: | |
| Leasehold Improvements | 229,792 |
| Vending Equipment | 136,756 |
| Switch Equipment | 592,579 |
| Computer and Office Equipment | 1,374,249 |
| Furniture and Fixtures | 193,258 |
| Telephone Equipment | 115,528 |
| Software | 490,547 |
| Reserve for loss on disposition of assets | (100,000) |
| Less Accumulated Depreciation | <u>(694,167)</u> |
| Total Property, Plant and Equipment: | <u>2,338,542</u> |
| Total Assets | <u><u>11,788,814</u></u> |



Consolidated Balance Sheet
As of September 30, 1999
Unaudited

Liabilities and Stockholders' Equity

Current Liabilities:

| | |
|--------------------------------------|------------------|
| Accounts Payable | 1,659,777 |
| Other Accrued Liabilities | 774,591 |
| Deferred Revenue | 274,815 |
| Current Capitalized Lease Obligation | 201,445 |
| Total Current Liabilities: | <u>2,910,627</u> |

Long Term Liabilities:

| | |
|--------------------------------|------------------|
| Capitalized Lease Obligation | 72,640 |
| Notes Payable to Related Party | 2,032,245 |
| Other | - |
| Total Long Term Liabilities: | <u>2,104,885</u> |

Stockholders' Equity:

| | |
|--|------------------|
| Common Stock, no par value, 60,000,000 shares authorized, 8,079,528 shares issued and outstanding | 4,039,764 |
| Preferred A, no par value, 24,000,000 shares authorized, 14,795,868 shares issued and outstanding | 3,240,882 |
| Preferred B, no par value, 6,818,182 shares authorized, no shares issued or outstanding | 20,000,002 |
| Other Preferred, no par value, 9,181,818 shares authorized, no shares issued or outstanding | - |
| Accumulated Deficit | (16,059,761) |
| Current Net Loss | (4,447,585) |
| Total Equity: | <u>6,773,302</u> |

Total Liabilities and Equity

11,788,814



Consolidated Statement of Operations
As of September 30, 1999
 Unaudited

| | <u>September</u> | <u>YTD</u> |
|----------------------------------|--------------------|--------------------|
| Net Sales | 370,767 | 1,022,418 |
| Cost of Sales | | |
| Usage | 164,105 | 540,442 |
| Gross, Gross Margin | 206,662 | 481,976 |
| Gross, Gross Margin % | 56% | 47% |
| Other Cost of Sales | 150,315 | 309,943 |
| Total Cost of Sales | 314,420 | 535,965 |
| Gross Margin | 56,347 | 172,033 |
| Gross Margin % | 15% | 18% |
| Operating Expenses | | |
| Engineering/Network Services | 253,638 | 563,604 |
| Software/Technology Development | 298,548 | 924,768 |
| Marketing | 199,594 | 417,826 |
| Sales and Service | 546,975 | 1,249,926 |
| General and Administrative | 480,906 | 1,226,408 |
| Total Operating Expenses | 1,779,661 | 2,602,871 |
| Income Before Interest and Taxes | <u>(1,723,314)</u> | <u>(4,210,499)</u> |
| Other Income and Expenses | | |
| Other Income | 566 | 3,759 |
| Interest Expense | 71,898 | 240,939 |
| Other Expenses | - | (94) |
| Net Other Income | <u>(71,332)</u> | <u>(237,086)</u> |
| Income Before Taxes | (1,794,646) | (4,447,585) |
| Tax Expense | - | - |
| Net Income/(Loss) | <u>(1,794,646)</u> | <u>(4,447,585)</u> |

EXHIBIT D - PROPOSED TARIFF

Applicant hereby requests a temporary waiver of ARSD 20:10:32:03(13) to the extent it requires applicant to file a tariff with its application until such time as its negotiations for a resale agreement are complete.

 **MOVX.COM**
MOVX COMMUNICATIONS
100 ROWLAND WAY, SUITE 145
NOVATO, CA 94945

WESTAMERICA BANK
IGNACIO, CA 94949
90-4021/1211 - 508

20863


6/11/1999

PAY TO THE ORDER OF South Dakota Public Utilities

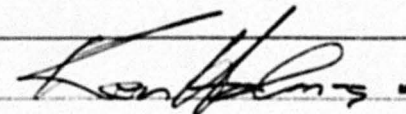
\$ **250.00

Two Hundred Fifty and 00/100*****

South Dakota Public Utilities
Commission

 **DOLLARS**
Security features
included
Details on back

MEMO Tariff Filing Fees



⑈020863⑈ ⑆121140218⑆ 0508764701⑈

MOVX COMMUNICATIONS

South Dakota Public Utilities
06/01/1999

Bill #111598250

6/11/1999

20863

250.00

TC99-111

WestAmerica-General Tariff Filing Fees

250.00

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of November 25, 1999 through December 1, 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

CONSUMER COMPLAINTS

CT99-064 In the Matter of the Complaint filed by Janice Catron, Mitchell, South Dakota, against Qwest Communications, Inc. Regarding Unauthorized Switching of Services.

The Complainant indicates that her long distance service was switched without her authorization. For relief, the Complainant requests all charges be removed and \$1000 damages.

Staff Analyst: Leni Healy

Staff Attorney: Karen Cremer

Dated Filed: 11/23/99

Intervention Deadline: NA

CT99-065 In the Matter of the Complaint filed by Frank and Dorothy Vavra, Gregory, South Dakota, against Qwest Communications, Inc. Regarding Unauthorized Switching of Services.

The Complainants allege that their long distance service was switched to Qwest without authorization. The Complainants are requesting that all charges and the \$5 switching fee be removed, that Qwest pay all associated fees for pursuing the complaint and that the Commission impose appropriate fines and penalties.

Staff Analyst: Leni Healy

Staff Attorney: Karen Cremer

Date Filed: 11/23/99

Intervention Date: NA

CT99-066 In the Matter of the Complaint filed by Frank E. Daly, Aberdeen, South Dakota, against OLS, Inc. Regarding Switching Telecommunications Services Through Deceptive Tactics.

The Complainant claims that he was contacted by OLS to maintain one billing for telecommunication services. The Complainant further claims that the OLS representative was questioned if the process would change his current long distance

service. The Complainant claims the OLS representative promised that his service would not change. The Complainant's service was switched to OLS. The Complainant requests that South Dakota Law be implemented and that OLS should be banned from operating in this state.

Staff Analyst: Leni Healy
Staff Attorney: Karen Cremer
Date Filed: 12/01/99
Intervention Deadline: NA

TELECOMMUNICATIONS

TC99-110 In the Matter of the Application of Bell Atlantic Communications, Inc. for a Certificate of Authority to Provide Telecommunications Services in South Dakota.

On November 29, 1999, the Commission received a request from Bell Atlantic Communications, Inc. (Bell Atlantic) for a Certificate of Authority to provide intrastate interexchange telecommunications services in South Dakota. Bell Atlantic intends to provide travel cards, operator services, and outbound intrastate toll service on a presubscribed basis to customers.

Staff Analyst: Heather Forney
Staff Attorney: Camron Hoseck
Date Filed: 11/29/99
Intervention Date: 12/17/99

TC99-111 In the Matter of the Application of MVX.COM Communications, Inc. for a Certificate of Authority to Provide Local Exchange Services in South Dakota.

On December 1, 1999, the Commission received a request from MVX.COM for a certificate of authority to provide local exchange service within the State of South Dakota. It intends to provide service through resale only.

Staff Analyst: Heather Forney
Staff Attorney: Karen Cremer
Date Filed: 12/01/99
Intervention Date: 12/17/99

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/>

Lance J.M. Steinhart
Attorney At Law
6455 East Johns Crossing
Suite 285
Duluth, Georgia 30097

Also Admitted in New York
and Maryland

Telephone: (770) 232-9200
Facsimile: (770) 232-9208

December 21, 1999

VIA FEDERAL EXPRESS

Mr. William Bullard
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501-5070
(605) 773-3201

RECEIVED
DEC 22 1999
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Re: MVX.COM Communications, Inc. - TC99-111

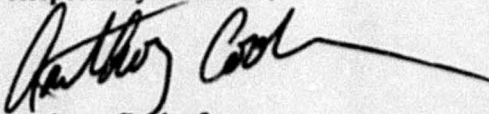
Dear Mr. Bullard:

Enclosed please find one original and ten (10) copies of MVX.COM Communications, Inc.'s responses to Staff's request for additional information in MVX.COM Communications, Inc.'s Amended Application for Registration of a Telecommunications Company to Provide Local Exchange Service in TC99-111.

I have enclosed an extra copy of this letter to be date stamped and returned to me in the enclosed self-addressed prepaid envelope.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Anthony Cooke for
Director of Government Affairs for
Lance J.M. Steinhart
Attorney for MVX.COM Communications, Inc.

Enclosures

cc: Mr. Edward A. Brinskele (w/enc)

1. MVX.COM Communications, Inc.'s (MVX.COM) fax number and e-mail address are:
fax : 415-893-0569 e-mail : www.mvx.com
2. MVX.COM has applied for its Certificate of Authority from the South Dakota Secretary of State Office. A copy will be filed with the Public Utilities Commission when MVX.COM receives its certificate.
3. Attached hereto as Exhibit 1 is a data sheet that documents the dates that MVX.COM received authorization for local exchange authority.
4. MVX.COM respectfully requests a waiver of ARSD 20:10:32:03(8), local exchange map. MVX.COM intends to provide local exchange service statewide on a resale basis.
5. Attached hereto as Exhibit 2 are the biographies of the Management Team of MVX.COM.
6. MVX.COM will rely upon the incumbent local exchange companies (LEC) for the provision and access to emergency services (911 or E911), operator services, interexchange services, directory assistance, and telecommunications relay services. MVX.COM intends to provide local exchange service on a resale basis only.
7. Attached hereto as Exhibit 3 is a statement of cash flow for MVX.COM.
8. MVX.COM will request a resale agreement with the incumbent LECs as soon as MVX.COM is authorized to provide local exchange services. MVX.COM anticipates a resale agreement will be in place by the end of the first quarter of 2000.
9. Attached hereto as Exhibit 4 is MVX.COM's illustrative tariff.
10. Attached hereto as Exhibit 5 is a copy of MVX.COM's service brochure for its InterAct service, which is currently being provided in California.
11. The e-mail address and facsimile number for MVX.COM's customer complaints and regulatory representative is:
e-mail : jrichards@mvx.com fax : 415-893-0569
12. Attached hereto as Exhibit 6 is MVX.COM's dialing parity plan.
13. MVX Communications, LLC, changed its name to MVX.COM Communications, Inc., on March 5, 1999. Attached hereto as Exhibit 7 is a copy of the Agreement and Plan of Merger of between MVX Communications, LLC and MVX.COM Communications, Inc. Applicant requests that the Certificate of Authority issued to MVX Communications, LLC in Docket No. TC98-054 be reissued under the name of MVX.COM Communications, Inc.

EXHIBIT 1

MVX.COM's Local Exchange Authority Data Sheet

| MVX.COM COMMUNICATIONS, INC. | | |
|------------------------------|--|--------------------------------------|
| STATES | FILED DATE / DOCKET # | APPROVED ON |
| Alabama | 12/6/99 | |
| Arizona | 8/18/99 Doc. No. T-03549A-98-0201 | |
| Arkansas | 8/19/99 Docket 99-226-U | |
| California | name change 9/9/99 docket # A-99-09014 | 10/19/99 |
| Colorado | 8/19/99 Docket No. 99A-411T | 11/19/99 Decision No. C99-1278 |
| Connecticut | 98-02-11:TE:NJP | 9/22/99 |
| Delaware | 12/6/99 | |
| Florida | 8/31/99 Docket 991289-TX | 12/2/99 Order No. PSC-99-2316-PAA-TX |
| Georgia | 12/6/99 | |
| Hawaii | 10/6/99 Docket 99-0351 | |
| Idaho | 8/19/99 GNR-T-99-16 | 10/28/99 Certificate No. 366 |
| Illinois | | 2/18/99 |
| Indiana | 8/31/99 Cause No.41533 | 10/21/99 |
| Iowa | 8/20/99 Docket TCU 99-30 | 11/19/99 |
| Kansas | 8/31/99 Docket No. 00-MVXT-255-COC | 12/8/99 |
| Louisiana | 9/2/99 | |
| Maine | 11/12/99 | |
| Maryland | 12/3/99 | |
| Massachusetts | 9/28/99 | 10/29/99 |
| Michigan | Sent to Clark Hill 8/17/99 Case No. U12108 | 11/30/99 |
| Mississippi | 10/6/99 | |
| Missouri | 9/3/99 Docket TA-2000-218 | |
| Montana | 8/20/99 | 8/20/99 |
| Nebraska | 12/1/99 Application No. C-2171 | |
| Nevada | 11/17/99 | |
| New Hampshire | 10/6/99 Docket DT 99-151 | 12/7/99 effective 1/6/2000 |
| New Jersey | 8/18/99 | 8/18/99 |
| New Mexico | 11/17/99 | |
| New York | 9/3/99 Case: C99-C-1208 | 11/9/99 |
| North Carolina | 9/10/99 | |
| North Dakota | 10/5/99 PU-2183-99-545 | 10/20/99 |
| Ohio | 9/10/99 99-1099-TP-ACE | 11/18/99 |
| Oklahoma | 11/18/99 | |
| Oregon | 6/30/99 | 6/30/99: 99-020 |
| Pennsylvania | 9/13/99 Docket M-00960799 | 10/19/99 A-310872 |
| Rhode Island | 11/23/99 | |
| South Carolina | 11/22/99 Docket No. 1999-479-C | |
| South Dakota | 12/1/99 | |
| Tennessee | 9/2/99 | |
| Texas | 8/18/99 Docket# 21292 | 11/4/99 |
| Utah | 9/13/99 Docket 99-2292-01 | 12/7/99 |
| Vermont | 11/17/99 | |
| Washington | 8/18/99 Docket # UT-991291 | 10/14/99 |
| West Virginia | 12/3/99 Case No. 99-1749-T-CN | |
| Wisconsin | 11/4/99 Docket # 7281-TI-100 | 11/23/99 |
| Wyoming | 9/3/99 Docket # 70054-TA-99-1 | |
| Dist. of Columbia | 9/28/99 | |

EXHIBIT 2

MVX.COM's Management Team

CONFIDENTIAL 1

EXHIBIT 3

MVX.COM's Cash Flow Statement

EXHIBIT 4

MVX.COM's Illustrative Tariff

CONFIDENTIAL 2

MVX.COM COMMUNICATIONS, INC.
100 Rowland Way, Suite 145
Novato, CA 94945

South Dakota Tariff Number 1
Original Page 1

**RULES, REGULATIONS, AND
SCHEDULE OF RATES AND CHARGES
APPLICABLE TO END USERS**

LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

**FURNISHED BY
MVX.COM COMMUNICATIONS, INC.
WITHIN THE STATE OF SOUTH DAKOTA**

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

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CHECK SHEET

The Title Page and pages listed below are inclusive and effective as of the date shown. Original and revised pages as named below contain all changes from the original tariff that are in effect on the date shown on each page.

| Page Number | Revision | Page Number | Revision | Page Number | Revision | Page Number | Revision | Page Number | Revision |
|----------------|----------|----------------|----------|----------------|----------|----------------|----------|----------------|----------|
| 1 | Original | 31 | Original | 61 | Original | 74 | Original | 87 | Original |
| 2 | Original | 32 | Original | 62 | Original | 75 | Original | 88 | Original |
| 3 | Original | 33 | Original | 63 | Original | 76 | Original | 89 | Original |
| 4 | Original | 34 | Original | 64 | Original | 77 | Original | 90 | Original |
| 5 | Original | 35 | Original | 65 | Original | 78 | Original | 91 | Original |
| 6 | Original | 36 | Original | 66 | Original | 79 | Original | 92 | Original |
| 7 | Original | 37 | Original | 67 | Original | 80 | Original | 93 | Original |
| 8 | Original | 38 | Original | 68 | Original | 81 | Original | 94 | Original |
| 9 | Original | 39 | Original | 69 | Original | 82 | Original | 95 | Original |
| 10 | Original | 40 | Original | 70 | Original | 83 | Original | 96 | Original |
| 11 | Original | 41 | Original | 71 | Original | 84 | Original | | |
| 12 | Original | 42 | Original | 72 | Original | 85 | Original | | |
| 13 | Original | 43 | Original | 73 | Original | 86 | Original | | |

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EXPLANATION OF SYMBOLS

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

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

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South Dakota Tariff Number 1
Original Page 5

APPLICATION OF TARIFF

This tariff sets forth the service offerings, rates, terms and conditions applicable to the local exchange telecommunications services provided by MVX.COM Communications, Inc. to customers within the state of South Dakota.

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SECTION 1.0 - DEFINITIONS

For the purpose of this tariff, the following definitions will apply:

Access Line - An arrangement which connects the Customer's location to a switching center or point of presence.

Account Codes - Optional, Customer-defined digits that allow the Customer to identify the individual user, department or client associated with a call. Account Codes appear on the Customer bill.

Advance Payment - Part or all of a payment required before the start of service.

Authorized User - A person, firm, corporation, or any other entity authorized by the Customer to communicate utilizing the Company's service.

Business - A class of service provided to individuals engaged in business, firms, partnerships, corporations, agencies, shops, works, tenants of office buildings, and individuals practicing a profession or operating a business who have no offices other than their residences and where the use of the service is primarily or substantially of a business, professional or occupational nature.

Commission - South Dakota Public Utilities Commission.

Company or Carrier - MVX.COM Communications, Inc., unless otherwise clearly indicated by the context.

Customer - The person, firm, corporation or other entity which orders, cancels, amends or uses service and is responsible for payment of charges and compliance with the Company's tariff.

Deposit - Refers to a cash or equivalent of cash security held as a guarantee for payment of the charges.

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DID Trunk - A form of local switched access that provides the ability for an outside party to call an internal extension directly without the intervention of the Company operator.

Dial Pulse (or "DP") - The pulse type employed by rotary dial station sets.

Dual Tone Multi-Frequency (or "DTMF") - The pulse type employed by tone dial station sets.

End User - Any person, firm, corporation, partnership or other entity which uses the services of the Company under the provisions and regulations of this tariff. The End User is responsible for payment unless the charges for the services utilized are accepted and paid for by another Customer.

End Office - With respect to each NPA-NXX code prefix assigned to the Company, the location of the Company's "end office" for purposes of this tariff shall be the point of interconnection associated with that NPA-NXX code in the Local Exchange Routing Guide ("LERG"), issued by Bellcore.

Hearing Impaired - Those persons with communication impairments, including those hearing impaired, deaf, deaf/blind, and speech impaired persons who have an impairment that prevents them from communicating over the telephone without the aid of a telecommunications device for the deaf.

Hunting - Routes a call to an idle station line in a prearranged group when the called station line is busy.

In-Only - A service attribute that restricts outward dial access and routes incoming calls to a designated answer point.

IXC or Interexchange Carrier - A long distance telecommunications services provider.

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LATA - A Local Access and Transport Area established pursuant to the Modification of Final Judgement entered by the United States District Court for the District of Columbia in Civil Action No. 82-0192; or any other geographic area designated as a LATA in the National Exchange Carrier Association, Inc. Tariff F.C.C. No. 4.

LEC - Local Exchange Company

Minimum Point of Presence ("MPOP") - The main telephone closet in the Customer's building.

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

Multi-Frequency or ("MF") - An inter-machine pulse type used for signaling between telephone switches, or between telephone switches and PBX/key systems.

Non-Recurring Charge ("NRC") - The initial charge, usually assessed on a one-time basis, to initiate and establish service.

Other Telephone Company - An Exchange Telephone Company, other than the Company.

PBX - Private Branch Exchange

Premises - A building or buildings on contiguous property.

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

Residence or Residential - A class of service furnished to a Customer at a place of dwelling where the actual or obvious use is for domestic purposes.

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Service commencement Date - The first day following the date on which the Company notifies the Customer that the requested service is available for use, unless extended by the Customer's refusal to accept service which does not conform to standards set forth in the Service Order of this tariff, in which case the Service Commencement Date is the date of the Customer's acceptance. The Company and Customer may mutually agree on a substitute Service Commencement Date.

Service Order - The written request for services executed by the Customer and the Company in the format devised by the Company. The signing of a Order by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff, but the duration of the service is calculated from the Service Commencement Date.

- Used throughout this tariff to mean MVX.COM Communications, Inc. unless clearly indicated otherwise by the text.

TBD - To Be Determined.

Two Way - A service attribute that includes outward dial capabilities for outbound calls and can also be used to carry inbound calls to a central point for further processing.

Usage Based Charges - Charges for minutes or messages traversing over local exchange facilities.

User or End User - A Customer, Joint User, or any other person authorized by a Customer to use service provider under this tariff.

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SECTION 2.0 - 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 originating from points within the State of South Dakota, and terminating within a local calling area as defined herein.

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 access to the Company network 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 lack of facilities, or due to some other cause beyond the Company's control.
- (B) The furnishing of service under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.1 Undertaking of the Company, (Cont'd.)

2.1.3 Terms and Conditions

- (A) Service is provided on the basis of a minimum period of at least six months, 24 hours per day. For the purpose of computing charges in this tariff, a month is considered to have thirty (30) days.
- (B) Customers may be required to enter into written service orders which shall contain or reference a specific description of the service ordered, the rates to be charged, the duration of the services, and the terms and conditions in this tariff. Customers will also be required to execute any other documents as may be reasonably requested by the Company.
- (C) Except as otherwise stated in the tariff, at the expiration of the initial term specified in each Service Order, or in any extension thereof, service shall continue on a month to month basis at the then current rates unless terminated by either party upon thirty (30) days written notice. Any termination shall not relieve the Customer of its obligation to pay any charges incurred under the service order and this tariff prior to termination. The rights and obligations which by their nature extend beyond the termination of the term of the service order shall survive such termination.
- (D) Service may be terminated upon written notice to the Customer if:
 - (1) the Customer is using the service in violation of this tariff; or
 - (2) the Customer is using the service in violation of the law.
- (E) This tariff shall be interpreted and governed by the laws of the State of South Dakota without regard for its choice of laws provision.

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.1 Undertaking of the Company, (Cont'd.)

2.1.3 Terms and Conditions, (cont'd.)

- (F) Any Other Telephone Company may not interfere with the right of any person or entity to obtain service directly from the Company. No person or entity shall be required to make any payment, incur any penalty, monetary or otherwise, or purchase any services in order to have the right to obtain service directly from the Company.
- (G) To the extent that either the Company or any Other Telephone Company exercises control over available cable pairs, conduit, duct space, raceways, or other facilities needed by the other to reach a person or entity, the party exercising such control shall make them available to the other terms equivalent to those under which the Company makes similar facilities under its control available to its Customers. At the reasonable request of either party, the Company and the Other Telephone Company shall jointly attempt to obtain from the owner of the property access for the other party to serve a person or entity.
- (H) The Company hereby reserves its rights to establish service packages specific to a particular Customer. These contracts may or may not be associated with volume and/or term discounts.

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SECTION 2.0 - RULES AND REGULATIONS (CONTD)

21 Undertaking of the Company, (Cont'd.)

2.1.4 Limitations on Liability

- (A) Except as otherwise stated in this section, the liability of the Company for damages arising out of either: (1) the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representations, or use of these services or (2) the failure to furnish its service, whether caused by acts or omission, shall be limited to the extension of allowances to the Customer for interruptions in service as set forth in Section 2.7.
- (B) Except for the extension of allowances to the Customer for interruptions in service as set forth in Section 2.7, the Company shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including, but not limited to, any act or omission, failure to perform, delay, interruption, failure to provide any service or any failure in or breakdown of facilities associated with the service.
- (C) The liability of the Company for errors in billing that result in overpayment by the Customer shall be limited to a credit equal to the dollar amount erroneously billed or, in the event that payment has been made and service has been discontinued, to a refund of the amount erroneously billed.

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.1 Undertaking of the Company, (Cont'd.)

2.1.4 Limitations on Liability (Cont'd.)

- (D) The Company shall be indemnified and saved harmless by the Customer from and against all loss, liability, damage and expense, including reasonable counsel fees, due to:
- (1) Any act or omission of: (a) the Customer, (b) any other entity furnishing service, equipment or facilities for use in conjunction with services or facilities provided by the Company; or (c) common carriers or warehousemen, except as contracted by the Company;
 - (2) Any delay or failure of performance or equipment due to causes beyond the Company's control, including but not limited to, acts of God, fires, floods, earthquakes, hurricanes, or other catastrophes; national emergencies, insurrections, riots, wars or other civil commotions; strikes, lockouts, work stoppages or other labor difficulties; criminal actions taken against the Company; unavailability, failure or malfunction of equipment or facilities provided by the Customer or third parties; and any law, order, regulation or other action of any governing authority or agency thereof;
 - (3) Any unlawful or unauthorized use of the Company's facilities and services;
 - (4) Libel, slander, invasion of privacy or infringement of patents, trade secrets, or copyrights arising from or in connection with the material transmitted by means of Company-provided facilities or services; or by means of the combination of company-provided facilities or services;
 - (5) Breach in the privacy or security of communications transmitted over the Company's facilities;

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.1 Undertaking of the Company, (Cont'd.)

2.1.4 Limitations on Liability (Cont'd.)

(D) (cont'd)

- (6) Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in paragraph (A) of this Subsection 2.1.4.
- (7) Defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof;
- (8) Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to the Company's facilities;
- (9) Any noncompletion of calls due to network busy conditions;
- (10) Any calls not actually attempted to be completed during any period that service is unavailable;
- (11) And any other claim resulting from any act or omission of the Customer or patron(s) of the Customer relating to the use of the Company's services or facilities.

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.1 Undertaking of the Company, (Cont'd.)

2.1.4 Limitations on Liability (Cont'd.)

- (E) The Company does not guarantee nor make any warranty with respect to installations provided by its for use in an explosive atmosphere.
- (F) The Company makes no warranties or representations, EXPRESS OR IMPLIED, either in fact or by operation of law, statutory or otherwise, including warranties of merchantability or fitness for a particular use, except those expressly set forth herein.
- (G) Failure by the Company to assert its rights pursuant to one provision of this tariff does not preclude the Company from asserting its rights under other provisions.

2.1.5 Notification of Service-Affecting Activities

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

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.1 Undertaking of the Company, (Cont'd.)

2.1.6 Provision of Equipment and Facilities

- (A) The Company shall use reasonable efforts to maintain only the facilities and equipment that it furnishes to the Customer. The Customer may not nor may the Customer permit others to rearrange, disconnect, remove, attempt to repair, or otherwise interfere with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.
- (B) The Company may substitute, change or rearrange any equipment or facility at any time and from time to time, but shall not thereby alter the technical parameters of the service provided by the Customer.
- (C) Equipment the Company provides or installs at the Customer Premises for use in connection with the services the Company offers shall not be used for any purpose other than that for which the equipment is provided.
- (D) Except as otherwise indicated, Customer provided station equipment at the Customer's premises for use in connection with the service shall be so constructed, maintained and operated as to work satisfactorily with the facilities of the Company.
- (E) The Company shall not be responsible for the installation, operation, or maintenance of any Customer provided communications equipment. Where such equipment is connected to the facilities furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of facilities offered under this tariff and to the maintenance and operation of such facilities. Subject to this responsibility, the Company shall not be responsible for:
 - (1) the through transmission of signals 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.

SECTION 2.0 - RULES AND REGULATIONS (CONTD)

2.1 Undertaking of the Company, (Cont'd.)

2.1.7 Non-Routine Installation

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

2.1.8 Special Construction

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

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.1 Undertaking of the Company, (Cont'd.)

2.1.9 Ownership of Facilities

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

2.2 Prohibited Uses

2.2.1 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 required governmental approvals, authorizations, licenses, consents and permits.

2.2.2 The Company may require applicants for service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws and the South Dakota Public Utilities Commission's regulations, policies, orders, and decisions.

2.2.3 The Company may block any signals being transmitted over its Network by Customers which cause interference to the Company or other users. Customer shall be relieved of all obligations to make payments for charges relating to any blocked Service and shall indemnify the Company for any claim, judgement or liability resulting from such blockage.

2.2.4 A Customer, joint user, or authorized user may not assign, or transfer in any manner, the service or any rights associated with the service without the written consent of the Company. The Company will permit a Customer to transfer its existing service to another entity if the existing Customer has paid all charges owed to the Company for regulated communications services. Such a transfer will be treated as a disconnection of existing service and installation of new service, and non-recurring installation charges as stated in this tariff will apply.

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.3 Obligations of the Customer

2.3.1 General

The Customer shall be responsible for:

- (A) the payment of all applicable charges pursuant to this tariff;
- (B) damage to or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer; or the noncompliance by the Customer, with these regulations; or by fire or theft or other casualty on the Customer Premises, unless caused by the negligence or willful misconduct of the employees or agents of the Company;
- (C) providing at no charge, as specified from time to time by the Company, any needed equipment, space and power to operate Company facilities and equipment installed on the premises of the Customer, and the level of heating and air conditioning necessary to maintain the proper operating environment on such premises;
- (D) obtaining, maintaining, and otherwise having full responsibility for all rights-of-way and conduit necessary for installation of fiber optic cable and associated equipment used to provide Communications Services to the Customer from the cable building entrance or property line to the location of the equipment space described in Section 2.3.1(C). Any and all costs associated with the obtaining and maintaining the rights-of-way described herein, including the costs of altering the structure to permit installation of the Company provided facilities, shall be 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.

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SECTION 2.2 - RULES AND REGULATIONS (CONTD)

2.3 Obligations of the Customer

2.3.1 General (cont'd.)

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

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.3 Obligations of the Customer (Cont'd.)

2.3.2 Liability of the Customer

- (A) The Customer will be liable for damages to the facilities of the Company and for all incidental and consequential damages caused by the negligent or intentional acts or omissions of the Customer, its officers, employees, agents, invites, or contractors where such acts or omissions are not the direct result of the Company's negligence or intentional misconduct.
- (B) To the extent caused by any negligent or intentional act of the Customer as described in (A), preceding, the Customer shall indemnify, defend and hold harmless the Company from and against all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees, for (1) any loss, destruction or damage to property of any third party, and (2) any liability incurred by the Company to any third party pursuant to this or any other tariff of the Company, or otherwise, for any interruption of, interference to, or other defect in any service provided by the Company to such third party.
- (C) The Customer shall not assert any claim against any other Customer or user of the Company's services for damages resulting in whole or in part from or arising in connection with the furnishing of service under this tariff including but not limited to mistakes, omissions, interruptions, delays, errors or other defects or misrepresentations, whether or not such other Customer or user contributed in any way to the occurrence of the damages, unless such damages were caused solely by the negligent to intentional act or omission of the other Customer or user and not by any act or omission of the Company. Nothing in this tariff is intended either to limit or to expand Customer's right to assert any claims against third parties for damages of any nature other than those described in the preceding sentence.

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SECTION 2.0 - RULES AND REGULATIONS (CONTD)

2.4 Customer Equipment and Channels

2.4.1 General

A user may transmit or receive information or signals via the facilities of the Company. The Company's services are designated primarily for the transmission of voice-grade telephonic signals, except as otherwise stated in this tariff. A user may transmit any form of 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 communication except as specifically stated in this tariff.

2.4.2 Station Equipment

- (A) Terminal equipment of the user's premises and the electric power consumed by such equipment shall be provided by and maintained at the expense of the user. The user is responsible for the provision of wiring or cable to connect its terminal equipment to the Company MPOP.
- (B) The Customer is responsible for ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with such equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by 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, subject to prior Customer approval of the equipment expense.

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.4 Customer Equipment and Channels (Cont'd.)

2.4.3 Interconnection of Facilities

- (A) Local Traffic Exchange provides the ability for another local exchange provider to terminate local traffic on the Company's network. In order to qualify for Local Traffic Exchange the call must: (a) be originated by an end user of a company that is authorized by the South Dakota Public Utilities Commission to provide local exchange service; (b) originate and terminate within a local calling area of the Company.
- (B) 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.
- (C) Communications Services may be connected to the services or facilities of other communications carriers only when authorized by, and in accordance with, the terms and conditions of the tariffs of the other communications carriers which are applicable to such connections.
- (D) Facilities furnished under this tariff may be connected to Customer provided terminal equipment in accordance with the provisions of this tariff. All such terminal 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.

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.4 Customer Equipment and Channels (Cont'd.)

2.4.4 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 is complying with the requirements set forth in Section 2.4.2(B) 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 ten days of receiving this notice, the Customer must take this corrective action and notify the Company of the action taken. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of service, to protect its facilities, equipment and personnel from harm.
- (C) If harm to the Company's network, personnel or services is imminent, the Company reserves the right to shut down Customer's service immediately, with no prior notice required.

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SECTION 2.0 - RULES AND REGULATIONS (CONTD)

2.5 Customer Deposits and Advance Payments

2.5.1 Advance Payments

To safeguard its interests, the Company may require a Customer to make an advance payment before services and facilities are furnished, where special construction is involved. The advance payment will not exceed an amount equal to the nonrecurring charge(s) and one (1) month's charges for the service or facilities. In addition, 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. Advance payments do not accrue interest. An advance payment may be required in addition to a deposit.

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.5 Customer Deposits and Advance Payments (Cont'd.)

2.5.2 Deposits

- (A) To safeguard its interests, the Company may require the Customer to make a deposit to be held as a guarantee for the payment of charges in accordance with South Dakota Public Utilities Commission Rules. A deposit may be required if the Customer's financial condition is not acceptable to the Company or is not a matter of general knowledge. A deposit does not relieve the Customer of the responsibility for the prompt payment of bills on presentation. The deposit will not exceed an amount equal to two and one-half twelfths of the estimated charge for the service for the ensuing twelve months. A deposit may be required in addition to an advance payment.
- (B) Upon discontinuance of service, the Company shall promptly and automatically refund the Customer's deposit plus accrued interest, or the balance, if any, in excess of the unpaid bills including any penalties assessed for service furnished by the Company.
- (C) Deposits will accrue interest annually at the legal rate in accordance with South Dakota Public Utilities Commission Rules.

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.6 Payment Arrangements

2.6.1 Payment for Services

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

The Customer is responsible for the payment of federal excise taxes, state and local sales and use taxes and similar taxes imposed by governmental jurisdictions, all of which shall be separately designated on the Company's invoices. The Company will not separately charge for the South Dakota gross receipts tax on the Company's invoice for local services. Any taxes imposed by a local jurisdiction (e.g., county and municipal) will only be recovered from those Customers residing in the affected jurisdictions.

Certain telecommunications services, as defined in the South Dakota Revised Code, are subject to state sales tax at the prevailing tax rates, if the services originate, or terminate in South Dakota, or both, and are charged to a subscriber's telephone number or account in South Dakota.

2.6.2 Billing and Collection of Charges

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

- (A) Non-recurring charges are due and payable within thirty (30) days after the date the invoice is mailed to the Customer by the Company.
- (B) The Company shall present invoices for recurring charges monthly to the Customer, in advance of the month in which service is provided, and recurring charges shall be due and payable within thirty (30) days after the date the invoice is mailed to the Customer by the Company. When billing is based upon Customer usage, usage charges will be billed monthly for the preceding billing period.
- (C) When service does not begin on the first day of the month, or end of the last day of the month, the charge for the fraction of the month in which service was furnished will be calculated on a pro rata basis. For this purpose, every month is considered to have thirty (30) days.

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SECTION 2.0 - RULES AND REGULATIONS (CONTD)

2.6 Payment Arrangements (Cont'd.)

2.6.2 Billing and Collection of Charges (Cont'd.)

- (D) Billing of the Customer by the Company will begin on the Service Commencement Date, which is the day on which the Company notifies the Customer that the service or facility is available for use, except that the Service Commencement Date may be postponed by mutual agreement of the parties, or if the service or facility does not conform to standards set forth in this tariff or the Service Order. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued.
- (E) If any portion of the payment is not received by the Company within 30 days of receipt of this bill, or if any portion of the payment is received by the Company in funds which are not immediately available upon presentment, then a late payment charge of 1.5% per month shall be due to the Company. A late payment charge is not applicable to subsequent rebilling of any amount to which a late payment charge has already been applied. Late payment charges are to be applied without discrimination.
- (F) the Customer should notify the Company of any disputed items on an invoice within thirty (30) days of receipt of the invoice. If the Customer and the Company are unable to resolve the dispute to their mutual satisfaction, the Customer may file a complaint with the South Dakota Public Utilities Commission in accordance with the Commission's rules and procedure. The address of the Commission is as follows:

South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Ave.
Pierre, South Dakota 57501
- (G) If service is disconnected by the Company (in accordance with Section 2.6.3 following) and later re-installed, re-installation of service will be subject to all applicable installation charges. If service is suspended by the Company (in accordance with Section 2.6.3 following) and later restored, restoration of service will be subject to the rates in Section 8.6.2.

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SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.6 Payment Arrangements (Cont'd.)

2.6.3 Discontinuance of Service for Cause

The Company may discontinue service for the following reasons provided in this Section 2.6.3. Customers will be provided five (5) days written notice prior to discontinuance unless otherwise indicated.

Upon the Company's discontinuance of service to the Customer under Section 2.6.3(A) or 2.6.3(B), the Company, in addition to all other remedies that may be available to the Company at law or in equity or under any other provision of this tariff, may declare all future monthly and other charges which would have been payable by the Customer during the remainder of the term for which such services would have otherwise been provided to the Customer to be immediately due and payable (discounted to present value at six percent).

- (A) Upon nonpayment of any amounts owing to the Company, the Company may discontinue or suspend service without incurring any liability. No basic residential service shall be disconnected for nonpayment until at least 29 days from the date of the bill and only following proper written notification.
- (B) Upon violation of any of the other material terms or conditions for furnishing service the Company may, discontinue or suspend service without incurring any liability if such violation continues during that period.
- (C) Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.
- (D) Upon the Customer's insolvency, assignment for the benefit of creditors, filing for bankruptcy or reorganization, or failing to discharge an involuntary petition within the time permitted by law, the Company may immediately discontinue or suspend service without incurring any liability.
- (E) Upon any governmental prohibition or governmental required alteration of the services to be provided or any violation of an applicable law or regulation, the Company may immediately discontinue service without incurring any liability.

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SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.6 Payment Arrangements, (Continued)

2.6.3 Discontinuance of Service for Cause

- (F) Without notice in the event of fraudulent use of the Company's network. The Customer will be liable for all related costs. The Customer will also be responsible for payment of any reconnection charges.
- (G) Without notice in the event of Customer use of equipment or services in such a manner as to adversely affect the Company's service to others.
- (H) Without notice in the event of tampering with the equipment or services furnished by the Company.

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SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.6 Payment Arrangements, (Continued)

2.6.4 Notice to Company for Cancellation of Service

Customers desiring to terminate service shall provide the Company thirty (30) days notice of desire to terminate service. If special construction is involved, the required notice shall be written.

2.6.5 Cancellation of Application for Service

- (A) 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 in preparing to install the service that it otherwise would not have incurred, a charge equal to the costs the Company incurred, less net salvage, shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of services ordered, including installation charges, and all charges others levy against the Company that would have been chargeable to the Customer had service begun.
- (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, may apply. In such cases, the charge will be based on such elements as the cost of the equipment, facilities, and material, the cost of installation, engineering, labor, and supervision, general and administrative expense, other disbursements, depreciation, maintenance, taxes, provision for return on investment, and any other costs associated with the special construction or arrangements.
- (D) The special charges described in 2.6.5(A) through 2.6.5(C) will be calculated and applied on a case-by-case basis.

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SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.6 Payment Arrangements, (Continued)

2.6.6 Changes in Services 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.

2.6.7 Bad Check Charge

A service charge equal to the greater of \$20.00 will be assessed in accordance with South Dakota law for all checks returned by a bank or other financial institution for: Insufficient or uncollected funds, closed account, apparent tampering, missing signature or endorsement, or any other insufficiency or discrepancy necessitating return of the instrument at the discretion of the drawee bank or other financial institution.

2.7 Allowances for Interruptions in Service

2.7.1 General

- (A) A credit allowance will be given when service is interrupted, except as specified in Section 2.7.2 following. 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.

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SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.7 Allowances for Interruptions in Service, (Continued)

2.7.1 General (Continued)

- (C) If the Customer reports a service, facility or circuit to be interrupted but declines to release it for testing and repair, or refuses access to its premises for test and repair by the Company, the service, facility or circuit is considered to be impaired but not interrupted. No credit allowances will be made for a service, facility or circuit considered by the Company to be impaired.
- (D) The Customer shall be responsible for the payment of service charges as set forth herein for visits by the Company's agents or employees to the premises of the Customer when the service difficulty or trouble report results from the use of equipment or facilities provided by any party other than the Company, including but not limited to the Customer.

2.7.2 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;
- (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 reasonable control of the Company;
- (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;

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SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.7 Allowances for Interruptions in Service, (Continued)

2.7.2 Limitations of Allowances

- (E) A service will not be deemed to be interrupted if a Customer continues voluntarily make use of the service. If the service is interrupted, the Customer can get a service credit, use another means of communications provided by the Company (pursuant to Section 2.7.3), or utilize another service provider.
- (F) During any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- (G) That occurs or continues due to the Customer's failure to authorize replacement of any element of special construction; and
- (H) That was not reported to the Company within thirty (30) days of the date that service was affected.

2.7.3 Use of Another Means of Communications

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

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SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.7 Allowances for Interruption in Service, (Continued)

2.7.4 Application of Credits for Interruptions in Service

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

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SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.7 Allowances for Interruption in Service, (Continued)

2.7.4 Application of Credits for Interruptions in Service, (Continued)

(D) Interruptions of 24 Hours or Less

| Length of Interruption | Amount of Service to be Credited |
|--|----------------------------------|
| Less than 30 minutes | None |
| 30 minutes up to but not including 3 hours | 1/10 Day |
| 3 hours up to but not including 6 hours | 1/5 Day |
| 6 hours up to but not including 9 hours | 2/5 Day |
| 9 hours up to but not including 12 hours | 3/5 Day |
| 12 hours up to but not including 15 hours | 4/5 Day |
| 15 hours up to but not including 24 hours | One Day |

(E) Interruptions Over 24 Hours and Less Than 72 Hours

Interruptions over 24 hours and less than 72 hours will be credited 1/5 day for each 3-hour period or fraction thereof. No more than one full day's credit will be allowed for any period of 24 hours.

(F) Interruptions Over 72 Hours

Interruptions over 72 hours will be credited 2 days for each full 24-hour period. No more than thirty (30) days credit will be allowed for any one-month period.

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SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.7 Allowances for Interruption in Service, (Continued)

2.7.5 Limitations on Allowances

No credit allowance will be made for:

- (A) interruptions due to the negligence of or noncompliance with the provisions of this tariff by the Customer, authorized user or joint user;
- (B) interruptions due to the negligence of any person other than the Company, including but not limited to the Customer;
- (C) interruptions of service during any period in which the Company is not given full access to its facilities and equipment for the purpose of investigating and correcting interruptions;
- (D) interruptions of service during a period in which the Customer continues to use the service on an impaired basis;
- (E) interruptions of service during any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- (F) interruption of service due to circumstances or causes beyond the reasonable control of Company; and
- (G) that occur or continue due to the Customer's failure to authorize replacement of any element of special construction.

2.7.6 Cancellation For Service Interruption

Cancellation or termination for service interruption is permitted only if any circuit experiences a single continuous outage of eight (8) hours or more or cumulative service credits equaling sixteen(16) hours in a continuous twelve (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.

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SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.8 Cancellation of Service/Termination Liability

If a Customer cancels a service order or terminates services before the completion of the term for any reason other than a service interruption (as defined in Section 2.7.1) or where the Company breaches the terms in the service contract, Customer may be requested by the Company to pay to Company termination liability charges, which are defined below. These charges shall become due and owing as of the effective date of the cancellation or termination and be payable within the period set forth in Section 2.6.2.

2.8.1 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 the prime rate announced in the *Wall Street Journal* on the third business day following the date of cancellation;
- (D) minus a reasonable allowance for costs avoided by the Company as a direct result of Customer's cancellation.

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SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.9 Reserved for Future Use

2.10 Use of Customer's Service by Others

2.10.1 Resale and Sharing

There are no prohibitions or limitations on the resale of services. Prices for services appear in the price sheet attached to this tariff. 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 of the South Dakota Public Utilities Commission regulations governing such resale or sharing. The 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.

2.10.2 Joint Use Arrangements

Joint use arrangements will be permitted for all services provided under this tariff. From each joint use arrangement, one member will be designated as the Customer responsible for the manner in which the joint use of the service will be allocated. The Company will accept orders to start, rearrange, relocate, or discontinue service only from the Customer. Without affecting the Customer's ultimate responsibility for payment of all charges for the service, each joint user shall be responsible for the payment of the charges billed to it.

2.11 Transfers and Assignments

Neither the Company nor the Customer may assign or transfer its rights or duties in connection with the services and facilities provided by the Company without the written consent of the other party, except that the Company may assign its rights and duties to a) 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.

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SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.12 Notices and Communications

- 2.12.2** The Customer shall designate on the service order an address to which the Company shall mail or deliver all notices and other communications, except that Customer may also designate a separate address to which the Company's bills for service shall be mailed.
- 2.12.3** The Company shall designate on the service order an address to which the Customer shall mail or deliver all notices and other communications, except that Company may designate a separate address on each bill for service to which the Customer shall mail payment on that bill.
- 2.12.4** Except as otherwise stated in this tariff, all notices or other communications required to be given pursuant to this tariff will be in writing. Notices and other communications of either party, and all bills mailed by the Company, shall be presumed to have been delivered to the other party on the third business day following placement of the notice, communication or bill with the U.S. Mail or a private delivery service, prepaid and properly addressed, or when actually received or refused by the addressee, whichever occurs first.
- 2.12.5** The Company or the Customer shall advise the other party of any changes to the addresses designated for notices, other communications or billing, by following the procedures for giving notice set forth herein.

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SECTION 3.0 - SERVICE AREAS

3.1 Exchange Service Areas

Local exchange services are provided, subject to availability of facilities and equipment, in areas currently served by the following Incumbent LECs: 1) U S WEST.

3.2 Rate Groups

Charges for local services provided by the Company may be based, in part, on the Rate Group associated with the Customers End Office. The Rate Group is determined by the total access lines and PBX trunks in the local calling area which can be reached from each End Office.

In the event that an Incumbent LEC or the South Dakota Public Utilities Commission reclassifies an exchange from one Rate Group to another, the reclassification will also apply to customers who purchase services under this tariff. Local calling areas and Rate Group assignments are equivalent to those areas and groups specified in U S WEST's South Dakota General Subscriber Service Tariff (GSST).

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SECTION 3.0 - SERVICE AREAS (CONT'D)

3.3 Extended Area Service Additive

Certain exchanges within the Telecommunications Service Territory within South Dakota utilize an Extended Area Service additive to the rates provided in Sections 7.2, 7.3 and 7.5 of this tariff. The following chart identifies the additive rates that need to be added to the rates in those sections for the Extended Area Service rate.

3.3.1 Flat Rate Service Additive

To Be Determined

3.3.2 Message Rate Service Additive

To Be Determined

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SECTION 4.0 - SERVICE CHARGES AND SURCHARGES

4.1 Service Order and Change Charges

Non-recurring charges apply to processing Service Orders for new service, for changes in service, and for changes in the Customer's primary interexchange carrier (PIC) code.

| | <u>Residence</u> | <u>Business</u> |
|--------------------------------|------------------|-----------------|
| Line Connection Charge | | |
| First Line | TBD | TBD |
| Each Additional Line | TBD | TBD |
| Line Change Charge | | |
| First Line | TBD | TBD |
| Each Additional Line | TBD | TBD |
| Secondary Service Order Charge | TBD | TBD |

4.2 Maintenance Visit Charges

Maintenance Visit Charges apply when the Company dispatches personnel to a Customer's premises to perform work necessary for installing new service, effecting changes in service or resolving troubles reported by the Customer when the trouble is found to be caused by the Customer's facilities.

Maintenance Visit Charges will be credited to the Customer's account in the event trouble is not found in the Company facilities, but the trouble is later determined to be in those facilities.

The time period for which the Maintenance Visit Charges is applied will commence when Company personnel are dispatched at the Customer premises and end when work is completed. The rates for Maintenance of Service vary by time per Customer request.

| <u>Duration of time, per technician</u> | <u>Residential</u> | <u>Business</u> |
|---|--------------------|-----------------|
| Initial 15 minute increment | TBD | TBD |
| Each Additional 15 minute increment | TBD | TBD |

4.3 Restoration of Service

A restoration charge applies to the restoration of suspended service and facilities because of nonpayment of bills and is payable at the time that the restoration of the suspended service and facilities is arranged. The restoration charge does not apply when, after disconnection of service, service is later re-installed.

| | <u>Residence</u> | <u>Business</u> |
|--------------|------------------|-----------------|
| Per occasion | TBD | TBD |

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS

5.1 General

5.1.1 Services Offered

The following Network Services are available to residence/business Customers and for resale by other carriers certificated by the South Dakota Public Utilities Commission:

Standard Residence Line Service
Standard Business Line Service
PBX Trunk Service
Direct Inward Dial (DID) Service
Optional Calling Features

The following services are available to residence/business Customers and are not offered on a resale basis as of the effective date of this page.

Listing Services (including Non Published and Non Listed Services)
Directory Assistance
Miscellaneous Services (including Vanity Numbers and Number Portability)

5.1.2 Application of Rates and Charges

All services offered in this tariff are subject to service order and change charges where the Customer requests new services or changes in existing services, as well as indicated Non-Recurring and Monthly Recurring Charges. Charges for local calling services may be assessed on a measured rate basis and are additional to monthly recurring charges shown for Business or Residence lines, PBX Trunks, DID Trunks and Digital/DS1 service.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS, (CONT'D)

5.1 General (Continued)

5.1.3 Emergency Services Calling Plan

Access (at no additional charge) to the local operator or emergency services bureau by dialing 0- or 9-1-1 is offered at no charge to the Customer.

Message toll telephone calls, to governmental emergency service agencies as set forth in (A) following, having primary or principal responsibility with respect to the provision of emergency services to persons and property in the area from which the call is made, meeting the definition and criteria of an emergency call as set forth in (B) following are offered at no charge to Customers:

Governmental fire fighting, South Dakota State Highway Patrol, police, and emergency squad service (as designated by the appropriate governmental agency) qualify as governmental emergency service agencies provided they answer emergency service calls on a personally attended (live) twenty-four (24) hour basis, three hundred sixty-five (365) days a year, including holidays.

An emergency is an occurrence or set of circumstances in which conditions pose immediate threat to human life, property, or both and necessitate that prompt action be taken. An emergency call is an originated call of short duration to a governmental emergency services agency in order to seek assistance for such an emergency.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.2 Call Timing for Usage Sensitive Services

Where charges for a service are specified based on the duration of use, such as the duration of a telephone call, the following rules apply:

- 5.2.1 Calls are measured in durational increments identified for each service. All calls, which are fractions of a measurement increment, are rounded-up to the next whole unit.
- 5.2.2 Timing on completed calls begins when the call is answered by the called party. Answering is determined by hardware answer supervision in all cases where this signaling is provided by the terminating local carrier and any intermediate carrier(s).
- 5.2.3 Timing terminates on all calls when the calling party hangs up or the Company's network receives an off-hook signal from the terminating carrier.
- 5.2.4 Calls originating in one time period and terminating in another will be billed in proportion to the rates in effect during different segments of the call.
- 5.2.5 All times refer to local time.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.3 Distance Calculations

Where charges for a service are specified based upon distance, the following rules apply:

5.3.1 Distance between two points is measured as airline distance between the rate centers of the originating and terminating telephone lines. The rate center is a set of geographic coordinates, as referenced in Local Exchange Routing Guide issued by Bellcore, associated with each NPA-NXX combination (where NPA is the area code and NXX is the first three digits of a seven-digit telephone number). Where there is not telephone number associated with an access line on the Company's network (such as a dedicated 800 or WATS access line), the Company will apply the rate center of the Customer's main billing telephone number.

5.3.2 The airline distance between any two rate centers is determined as follows:

Step 1: Obtain the "V" (vertical) and "H" (horizontal) coordinates for each Rate Center from the above-referenced Bellcore document.

Step 2: Computer the difference between the "V" coordinate of the two rate centers; and the difference between the two "H" coordinates.

Step 3: Square each difference obtained in step (b) above.

Step 4: Add the square of the "V" difference and the square of the "H" difference obtained in step C) above.

Step 5: Divide the sum of the squares by 10. Round to the next higher whole number if any fraction is obtained.

Step 6: Obtain the square root of the whole number result obtained above. Round to the next higher whole number if any fraction is obtained. This is the airline mileage.

5.3.3 The formula for distance calculations is:

$$\frac{(V_1 - V_2)^2 + (H_1 - H_2)^2}{10}$$

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.4 Rate Periods for Time of Day Sensitive Services

5.4.1 For time of day, usage sensitive services, the following rate periods apply unless otherwise specified in this tariff.

| | MON | TUES | WED | THUR | FRI | SAT | SUN |
|-------------|-----|------|-----|------|-----|-----|-----|
| 8:00 AM TO | | | | | | | |
| 5:00 PM* | | | | | | | |
| 5:00 PM | | | | | | | |
| TO | | | | | | | |
| 11:00 PM* | | | | | | | |
| 11:00 PM TO | | | | | | | |
| 8:00 AM* | | | | | | | |

DAYTIME RATE PERIOD

EVENING RATE PERIOD

EVE

NIGHT/WEEKEND RATE PERIOD

*Up to but not including.

5.4.2 Calls are billed based on the rate in effect for the actual time period(s) during which the call occurs. Calls that cross rate period boundaries are billed the rates in effect in that boundary for each portion of the call, based on the time of day at the Customer location.

5.4.3 For services subject to holiday discounts, the following are Company recognized national holidays, determined at the location of the calling station. The evening rate is used on national holidays, unless a lower rate normally would apply.

New Year's Day
Memorial Day
Independence Day
Thanksgiving Day
Christmas Day

January 1
As Federally Observed
July 4
As Federally Observed
December 25

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.5 Standard Residence Line

A Standard Residence Line provides the Customer with a single, analog, voice-grade telephonic communications channel, which can be used to place or receive one call at a time. Standard Residence Lines are provided for the connection of Customer-provided wiring and single station sets or facsimile machines. An optional per line Hunting feature is available for multi-line Customers which routes a call to an idle station line in a prearranged group when the called station line is busy.

5.6 Standard Business Line

The Standard Business Line provides a Customer with a single, analog, voice-grade telephonic communications channel, which can be used to place or receive one call at a time. Standard Business Lines are provided for the connection of Customer-provided wiring and single station sets or facsimile machines. An optional per line Hunting feature is available for multi-line Customers which routes a call to an idle station line in a prearranged group when the called station line is busy.

5.7 PBX Trunk Service

Basic PBX Trunk Service provides a Customer with a single, voice-grade telephonic communications channel, which can be used to place or receive one call at a time. Basic Trunks are provided for connection of Customer-provided private branch exchanges (PBX) to the public switched telecommunications network. Each Basic PBX Trunk is provided with touch-tone signaling and may be configured into a hunt group at no additional charge with other Company-provided Basic PBX Trunks. The signal is an analog signal at the DSO level.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.8 Reserved for Future Use

5.9 Direct Inward Dialing (DID) Service

Direct Inward Dialing ("DID") permits calls incoming to a PBX system or other Customer Premises Equipment to be routed to a specific station without the assistance of an attendant. DID calls are routed directly to the station associated with the called number. DID service as offered by the Company provides the necessary trunks, telephone numbers, and out-pulsing of digits to enable DID service at a Customer's location. DID service requires special PBX software and hardware not provided by the Company. Such hardware and software is the responsibility of the Customer.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.10 Reserved for Future Use

5.11 Optional Calling Features

The features listed in Section 5.11.1 are offered by the Company to Residential and Business Customers. Refer to Price Lists in Sections 6 and 7 of this tariff for specific features offered with each type of local exchange service.

5.11.1 Features Descriptions

(A) **Flexible Call Forwarding:** Provides end-user control for call forwarding capabilities via dial-accessed voice prompt menus. Customers may forward calls to a primary local or long distance. The end-user may specify a secondary location for routing of go unanswered at the forward-to location or reach a busy signal. This secondary location may be another telephone number, pager or voice messaging service. Other capabilities included with this feature include:

Speed Forwarding;
Priority Screening;
Ring Control; and
Timed Forwarding.

It is the responsibility of the Customer to subscribe to the telephone number, pager or voice messaging service used as the secondary location.

(B) **Flexible Call Forwarding with Audio Calling Name:** Provides all of the functionality of Enhanced Call Forwarding. Also permits the end-user to receive the Directory Name of the party's whose call was forwarded to primary number. In some situations, the end-user may hear the calling party's city and state or telephone number, depending on available call data.

(C) **Flexible Call Forwarding Plus:** Provides all of the functionality of Enhanced Call Forwarding. Also includes an additional telephone number with directory listing and distinctive ringing for calls placed to the additional number. Enhanced Call Forwarding Plus allows parties to reach the end-user's location when FCF is active and all calls to the end-users main telephone number would normally forward. Calls to the additional number do not forward even when Enhanced Call Forwarding is active.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.11 Optional Calling Features, (continued)

5.11.1 Feature Descriptions, (continued)

- (D) **Flexible Call Forwarding Plus with Audio Calling Name:** Provides all of the functionality of Enhanced Call Forwarding Plus including the additional telephone number with listing and distinctive ringing. Also permits the end-user to receive the Directory Name of the party's whose call was forwarded to primary number. In some situations, the end-user may hear the calling party's city and state or telephone number, depending on available call data.
- (E) **Call Forwarding Variable:** Permits the end-user to automatically forward (transfer) all incoming calls to another telephone number, and to restore it to normal operation at their discretion. The end-user must dial an activation code from his/her exchange line along with the forward-to number in order to turn the feature on. A separate code is dialed by the end-user to deactivate the feature.
- (F) **Call Forwarding Variable, Remote Access:** Permits the end-user to automatically forward (transfer) all incoming calls to another telephone number, and to restore it to normal operation at their discretion. The end-user must dial an activation code along with the forward-to number in order to turn the feature on. A separate code is dialed by the end-user to deactivate the feature. Feature activation may be performed from the end-user's exchange line or remotely from some other line. Remote access requires the end-user to (1) dial a special access number 2) enter their seven-digit telephone number and 3) enter a personal identification number prior to forwarding their calls.
- (G) **Call Forwarding Don't Answer, Basic:** Permits the forwarding of incoming calls when the end-user's line remains unanswered after a pre-designated ringing interval. The ringing interval before forwarding and the forward-to number are fixed by the service order.
- (H) **Call Forwarding Don't Answer w/Ring Control:** Permits the forwarding of incoming calls when the end-user's line remains unanswered after a pre-designated ringing interval. The forward-to number is fixed by the service order. However, the end-user has the ability to change the time interval before forwarding occurs at his/her discretion.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.11 Optional Calling Features, (continued)

5.11.1 Feature Descriptions, (continued)

- (I) **Call Forwarding Don't Answer w/Customer Control:** Permits the forwarding of incoming calls when the end-user's line remains unanswered after a pre-designated ringing interval. The ringing interval before forwarding and the forward-to number are fixed by the service order. However, the end-user has the ability to turn the feature on or off at his/her discretion.
- (J) **Call Forwarding Busy Line, Basic:** Permits the forwarding of incoming calls when the end-user's line is busy. The forwarded number is fixed by the end-user service order.
- (K) **Call Forwarding Busy Line w/Customer Control:** Permits the forwarding of incoming calls when the end-user's line is busy. The forwarded number is fixed by the end-user service order. However, the end-user has the ability to turn the feature on or off at his/her discretion.
- (L) **Call Waiting - Basic:** Call Waiting provides a tone signal to indicate to a Customer already engaged in a telephone call that a second caller is attempting to dial in. It permits the Customer to place the first call on hold, answer the second call and then alternate between both callers. Cancel Call Waiting is provided with the feature and allows a Call Waiting end-user to disable the Call Waiting feature for the duration of a single outgoing telephone call. Cancel Call Waiting is activate by dialing a special code prior to placing a call, and is automatically deactivated when the Customer disconnects from the call.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.11 Optional Calling Features, (continued)

5.11.1 Feature Descriptions, (continued)

- (M) **Call Waiting - Deluxe:** Allows the end-user to control the treatment applied to incoming calls while the Customer is off-hook on an existing call. This feature includes the capabilities of Call Waiting Basic plus additional call treatment options. Treatment options offered with Call Waiting Deluxe include:

Answer the waiting call and placing the first party on hold;
Answer the waiting call and disconnecting from the first party;
Direct the waiting caller to hold via a recording
Forward the waiting caller to another location (e.g., voice mailbox or telephone answering service)

Full utilization of Call Waiting Deluxe requires specialized CPE not provided by the Company. It is the responsibility of the Customer to provide the necessary CPE. The end-user must have Caller ID Basic or Deluxe for display of calling party identification information for waiting calls. The end-user must have a Call Forwarding don't Answer feature active in order to forward a waiting call to another location.

- (N) **Call Waiting - Deluxe with Conferencing:** Provides all of the functionality of Call Waiting Deluxe. Also permits the end-user to conference a waiting call with an existing call (first party) and, if desired, subsequently drop either leg of the conferenced call.

- (O) **Caller ID - Basic:** Permits the end-user to view a Directory Number of the calling party on incoming telephone calls. Information is displayed on a specialized CPE not provided by the Company. The feature also provides the date and time of each incoming call. It is the responsibility of the Customer to provide the necessary CPE.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.11 Optional Calling Features, (continued)

5.11.1 Feature Descriptions, (continued)

- (P) **Caller ID - Deluxe:** Permits the end-user to view a Directory Name and Directory Number of the calling party on incoming telephone calls. Information is displayed on a specialized CPE not provided by the Company. The feature also provides the date and time of each incoming call. It is the responsibility of the Customer to provide the necessary CPE. In some situations, the calling party's city and state may be displayed rather than a Directory Name, depending on available call data.
- (Q) **Anonymous Call Rejection:** Permits the end-user to automatically reject incoming calls when the call originates from a telephone number which has blocked delivery of its calling number (see Calling Number Delivery Blocking). When active, calls from private numbers will be routed to a special announcement then terminated. The feature may be turned on or off by the end-user by dialing the appropriate feature control code. Anonymous Call Rejection is offered as a stand-alone feature or as an add-on to Caller ID Deluxe.
- (R) **Call Block:** Allows the end-user to automatically block incoming calls from up to six end-user pre-selected telephone numbers programmed into the feature's screening list. Callers whose numbers have been blocked will hear a recorded message stating that their call has been blocked. The end-user controls when the feature is active, and can add or remove calling numbers from the feature's screening list.
- (S) **Call Return:** Allows the Customer to return a call to the last incoming call whether answered or not. Upon activation, it will redial the number automatically and continue to check the number every 45 seconds for up to 30 minutes if the number is busy. The Customer is alerted with a distinctive ringing pattern when the busy number is free. When the Customer answers the ring, the call is then completed. The calling party's number will not be delivered or announced to the call recipient under any circumstances.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.11 Optional Calling Features, (continued)

5.11.1 Feature Descriptions, (continued)

- (T) **Call Selector:** Allows a Customer to assign a maximum of 15 telephone numbers to a special list. The Customer will hear a distinctive ring when calls are received from telephone numbers on that list.
- (U) **Call Tracing:** Allows the tracing of nuisance calls to a specified telephone number suspected of originating from a given local office. The tracing is activated upon entering the specified dial code. The originating telephone number, outgoing trunk number or terminating number, and the time and date are generated for every call to the specified telephone number can then be identified.
- (V) **Calling Number Delivery Blocking:** Prevents the delivery, display and announcement of the end-user's Directory Number and Directory Name on all calls dialed from an exchange service equipped with this option. When active, the end-user's telephone name and number will not appear on the called party's Caller ID CPE or be disclosed in another way. The feature is available on a per call or per line basis. With per call Calling Number Delivery Blocking, it is necessary for the end-user to dial an activation code prior to placing the call. With the per line version of the feature, all calls are placed with the end-user's number blocked. Per line end-users must dial an activation code prior to utilization.
- (W) **Message Waiting Indication:** Provides the end-user with an audible (stutter dial tone) or visual (lamp or other CPE display) indication that messages are waiting to be retrieved. Message Waiting Indication can only be activated/deactivated by a voice mailbox or other voice messaging service provided by the Company or third party. It is the responsibility of the Customer to subscribe to a compatible voice messaging service. Visual Message Waiting Indication requires specialized CPE not provided by the Company. It is the responsibility of the Customer to provide the necessary CPE.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.11 Optional Calling Features, (continued)

5.11.1 Feature Descriptions, (continued)

- (X) **Multiple Directory Number Distinctive Ringing:** This feature allows an end user to determine the source of an incoming call from a distinctive ring. The end user may have up to two additional numbers assigned to a single line (i.e. Distinctive Ringing - First Number and Distinctive Ringing - Second Number). The designated primary number will receive a normal ringing pattern; other numbers will receive distinctive ringing patterns. The pattern is based on the telephone number that the calling party dials.
- (Y) **Preferred Call Forwarding:** Permits the end-user to automatically forward to another number calls received from up to six end-user pre-selected telephone numbers programmed into the features screening list. The end-user controls when the feature is active, the forward-to-number and can add or remove calling numbers from the feature's screening list.
- (Z) **Repeat Dialing:** Permits the end-user to have calls automatically redialed when the first attempt reaches a busy number. The line is checked every 45 seconds for up to 30 minutes and alerts the Customer with a distinctive ringing pattern when the busy number and the Customer's line are free. The Customer can continue to make and receive calls while the feature is activated. The following types of calls cannot be reached using Repeat Dialing:

- Calls to 800 Service numbers
- Calls to 900 Service numbers
- Calls preceded by an interexchange carrier access code
- International Direct Distance Dialed calls
- Calls to Directory Assistance
- Calls to 911

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.11 Optional Calling Features, (continued)

5.11.1 Feature Descriptions, (continued)

(AA) **Speed Calling:** Permits the Customer to place calls to other telephone numbers by dialing a one or two digit code rather than the complete telephone number. The feature is available as either an eight (8) code list or a thirty (30) code list. Code lists may include local and/or toll telephone numbers. The Customer has the ability to add or remove telephone numbers and codes to/from the speed calling list without assistance from the Company.

(AB) **Three Way Calling:** Permits the end-user to add a third party to an established connection. When the third party answers, a two-way conversation can be held before adding the original party for a three-way conference. The end-user initiating the conference controls the call and may disconnect the third party to reestablish the original connection or establish a connection to a different third party. The feature may be used on both outgoing and incoming.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.12 Listing Services

For each Customer of Company-provided Exchange Service(s), the Company shall arrange for the listing of the Customer's main billing telephone number in the directory(ies) published by the dominant Local Exchange Carrier in the area at no additional charge. At a Customer's option, the Company will arrange for additional listings for an additional charge.

5.12.1 Non-Published Service

This optional service provides for suppression of printed and recorded directory listings. A Customer's name and number do not appear in printed directories or Directory Assistance Bureau records.

5.12.2 Non-Listed Service

This optional service provides for suppression of printed directory listings only. Parties may still obtain the Customer's number by calling the Directory Assistance Bureau.

5.13 Directory Assistance

Provides for identification of telephone directory numbers, via an operator or automated platform. Customers are provided with a maximum of 2 listings per each call to Directory Assistance.

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SECTION 5.0 - NETWORK SERVICES DESCRIPTIONS (CONTINUED)

5.14 Reserved for Future Use

5.15 Reserved for Future Use

5.16 Miscellaneous Services

5.16.1 Main Number Retention

Main Number Retention is an optional feature by which a Customer, who was formally a customer of another certified local exchange carrier at the same premises location, may retain its main telephone numbers and main fax numbers for use with the Company-provided Exchange Services. Main Number Retention service is only available in areas where the Company maintains some form of number retention arrangement with the Customer's former local exchange carrier.

5.16.2 Pay Per Call Blocking/Unblocking

This service provides the option of blocking, or subsequent unblocking, all 900 and 976 calls on a per line basis. The Company will provide for per-line blocking where the Company's switching facilities permit.

5.16.3 Vanity Number Service

This service provides for the reservation of special or unique telephone number and fax number for use with the Company-provided exchange services.

5.16.4 Presubscription Services

This service provides for the Presubscription of local exchange lines provided by the Company to the intraLATA and interLATA long distance carrier(s) selected by the Customer.

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST

7.1 General

Services provided in this tariff section are available on a Resale Service basis. Local Resale Services are provided through the use of resold switching and transport facilities obtained from Other Telephone Companies.

The rates, terms and conditions set forth in the section are applicable where the Company provides specified local exchange services to Customers through resale of local exchange services.

All rates set forth in this Section are subject to change and may be changed by the Company pursuant to notice requirements established by the South Dakota Public Utilities Commission. The rates, terms and conditions set forth in this Section are applicable as of the effective date hereof and will not apply to any Customer whose services may have been provisioned through resale of 's local exchange services, in whole or in part, prior to the effective date hereof.

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST, (CONTINUED)

7.2 Standard Residence Local Exchange Service

Standard Residence Local Exchange Service provides the Customer with a single, analog, voice-grade telephonic communications channel, which can be used to place or receive one call at a time. Standard Residence Local Exchange Service lines are provided for the connection of Customer-provided wiring, telephones, facsimile machines or other station equipment. An optional per line Hunting feature is available for multi-line Customers, which routes a call to the next idle line in a prearranged group when the called line is busy.

Local exchange service lines and trunks are provided on a single party (individual) basis only. No multi-party lines are provided. Service is available on a flat rate, measured rate or message rate basis depending on the service plan selected by the Customer. Not all service plans will be available in all areas.

Recurring charges for Standard Residence Local Exchange Service are billed monthly in advance. Usage charges if applicable are billed in arrears. Usage charges may apply for calls placed from the Customer's line. No usage charges will apply to calls received by the Customer. Non-recurring charges for installation or rearrangement of service are billed on the next month's bill immediately following work performed by the Company.

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.2 Standard Residence Local Exchange Service (Continued)

7.2.1 Monthly Recurring Charges

The following charges apply to Standard Residence Local Exchange Service lines per month. Rates and charges include Touch-tone Service for each line. The rates and charges below apply to service provided on a month-to-month basis.

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.2 Standard Residence Local Exchange Service (Continued)

7.2.2 Other Monthly Recurring Charges

(A) End-User Common Line (EUCL) Recovery Charge

The following charge applies to recovery of End User Common Lines charges billed to the Company by the Incumbent LEC.

| | |
|--------------------------------|-----|
| Single Line Customer, Per Line | TBD |
| Multi-line Customer, Per Line | TBD |

(B) Hunting (a.k.a. Rotary or Grouping)

The following charges apply to Standard Residence Local Exchange lines equipped with Hunting. Rates vary based on Rate Group.

To Be Determined

7.2.3 Usage Sensitive Charges and Allowances

(A) Flat Rate Service

No measured or message charges apply to calls placed or received from Flat Rate service lines. Customers receive unlimited calling within their local calling area.

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.2 Standard Residence Local Exchange Service, (Continued)

7.2.3 Usage Sensitive Charges and Allowances, (Continued)

(B) Message Service

Customers subscribing to Message Service will receive a monthly usage allowance of 30 outgoing calls. This allowance is applied to local calls placed from the Customer's line. Local usage in excess of the allowance will be billed in arrears. Local usage is billed on a per call basis.

Per Local Call

TBD

(1) Calls to Expanded Service Areas

The following per minute rates apply to calls to points in the Expanded Service Areas as defined in the General Subscriber Service Tariff, Section A3, presently on file with the SD. PUC.

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.2 Standard Residence Local Exchange Service, (Continued)

7.2.4 Non-Recurring Charges

Non-recurring charges apply to each line installed for the Customer. Non-recurring charges are in addition to applicable service order charges contained in Section 4 of this tariff. All such charges will appear on the next bill following installation of the service.

A separate non-recurring per line charge will apply where the Customer currently has service from the Incumbent LEC and requests an "As-Is" changeover of all current service(s) and features from the Incumbent LEC to the Company without any changes in such service or features. This Change Over Charge applies in lieu of the nonrecurring charges listed in the table below.

Non-recurring charges for installation of Residential lines are:

| | |
|-------------------------------|-----|
| First Line | TBD |
| Each Additional Line(1) | TBD |
| "As-Is" Change Over, Per Line | TBD |

NOTES:

- (1) Additional Line installation charges apply only when 2 or more lines are installed at the same time and at the same Customer Premises.

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.3 Standard Business Local Exchange Service

Standard Business Local Exchange Service provides the Customer with a single, analog, voice-grade telephonic communications channel, which can be used to place or receive one call at a time. Standard Business Local Exchange Service lines are provided for the connection of Customer-provided wiring, telephones, facsimile machines or other station equipment. An optional per line Hunting feature is available for multi-line Customers which routes a call to the next idle line in a prearranged group when the called line is busy.

Local exchange service lines and trunks are provided on a single party (individual) basis only. No multi-party lines are provided. Service is available on a flat rate, measured rate or message rate basis depending on the service plan selected by the Customer. Not all service plans will be available in all areas.

Recurring charges for Standard Business Local Exchange Service are billed monthly in advance. Usage charges, if applicable are billed in arrears. Usage charges may apply for calls placed from the Customer's line. No usage charges will apply to calls received by the Customer. Non-recurring charges for installation or rearrangement of service are billed on the next month's bill immediately following work performed by the Company.

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.3 Standard Business Local Exchange Service, (Continued)

7.3.1 Monthly Recurring Charges

The following charges apply to Standard Business Local Exchange Service lines per month. Rates and charges include Touchtone Service for each line. The rates and charges below apply to service provided on a month-to-month basis.

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7.3 Standard Business Local Exchange Service, (Continued)

7.3.2 Other Monthly Recurring Charges

(A) End-User Common Line (EUCL) Recovery Charge

The following charge applies to recovery of End User Common Line charges billed to the Company by the Incumbent LEC.

| | |
|--------------------------------|-----|
| Single Line Customer, Per Line | TBD |
| Multiline Customer, Per Line | TBD |

(B) Hunting (a/k/a Rotary or Grouping)

The following charges apply to Standard Business Local Exchange lines equipped with Hunting. Rates vary based on Rate Group.

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.3 Standard Business Local Exchange Service, (Continued)

7.3.3 Usage Sensitive Charges and Allowances

(A) Flat Rate Service

No measured or message charges apply to calls placed or received from Flat Rate service lines. Customers receive unlimited calling within their local calling area.

(B) Message Service

Customers subscribing to Message Service will receive a monthly usage allowance of 75 outgoing calls. This allowance is applied to local calls placed from the Customer's line. Local usage in excess of the allowance will be billed in arrears. Local usage is billed on a per call basis.

Per Local Call

TBD

(1) Calls to Expanded Service Areas

The following per minute rates apply to calls to points in the Expanded Service Areas as defined in the U S WEST's General Subscriber Service Tariff presently on file with the SD PUC.

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7.3 Standard Business Local Exchange Service, (Continued)

7.3.4 Non-Recurring Charges

Non-recurring charges apply to each line installed for the Customer. Non-recurring charges are in addition to applicable service order charges contained in Section 4 of this tariff. All such charges will appear on the next bill following installation of the service.

A separate non-recurring per line charge will apply where the Customer currently has service from the Incumbent LEC and requests an "As-Is" changeover of all current service(s) and features from the Incumbent LEC to the Company without any changes in such service or features. This Change Over Charge applies in lieu of the nonrecurring charges listed in the table below.

Non-recurring charges for installation of Residential lines are:

| | |
|-------------------------------|-----|
| First Line | TBD |
| Each Additional Line(1) | TBD |
| "As-Is" Change Over, Per Line | TBD |

NOTES:

- (1) Additional Line installation charges apply only when 2 or more lines are installed at the same time and at the same Customer Premises.

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.5 Residence and Business PBX Trunk Service

PBX Trunk service provides a Customer with a single, voice-grade telephonic communications channel which can be used to place one call at a time. Trunks are provided for connection of Customer-provided private branch exchanges (PBX) or other station equipment to the public switched telecommunications network.

PBX Trunks are available to Business and Residence Customers as Inward, Outward or Two-Way combination trunks where services and facilities permit.

Each PBX Trunk is provided with Touchtone signaling at no additional charge. An optional per trunk Hunting feature is available for Customers which routes a call to the next idle trunk in a prearranged group (see Sections 7.2 and 7.3).

PBX Trunks may also be equipped with Direct Inward Dialing (DID) capability and DID number blocks for additional charges (see Section 7.6).

7.5.1 Flat Rate Service

To Be Determined

7.5.2 Message Rate Service

To Be Determined

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.6 Direct Inward Dialing (DID) Service

Direct Inward Dialing ("DID") permits calls incoming to a PBX system or other Customer Premises Equipment to be routed to a specific station without the assistance of an attendant. DID calls are route directly to the station associated with the called number. DID service as offered by the Company provides the necessary trunks, telephone numbers, and out-pulsing of digits to enable DID service at a Customer's location. DID service requires special PBX software and hardware not provided by the Company. Such hardware and software is the responsibility of the Customer.

The following charges apply to Customers subscribing to DID service provided by the Company. These charges are in addition to recurring and non-recurring charges for PBX Trunks as shown in Section 7.5 of this tariff. The Customer will be charged for the number of DID numbers utilized out of the available 20 numbers.

| | Installation Charge | Monthly Recurring |
|--|------------------------|----------------------|
| Establish Trunk Group and Provide 1 st Block of 20 DID Numbers | TBD | TBD |
| Each Additional Block of 20 DID Numbers | TBD | TBD |
| DID Trunk Termination: | TBD | TBD |
| Per Inward Only Trunk | TBD | TBD |
| Per Combination Trunk with Call Transfer | | |
| Dual Tone Multifrequency Pulsing Option, Per Trunk | N/A | TBD |
| Automatic Intercept Service, Per Number Referred | TBD | N/A |

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.7 Reserved For Future Use

7.8 Optional Calling Features

The features in this section are made available on an individual basis or as part of multiple feature packages. All features are provided subject to availability. Certain features may not be available with all classes of service. Transmission levels for calls forwarded or calls placed or received using optional calling features may not be acceptable for all some uses in some cases.

7.8.1 Features Offered on a Usage Sensitive Basis

The following features are available to all local exchange Business and Residence line Customers where facilities and services permit. Customers may utilize each feature by dialing the appropriate access code. The Customer will be billed the Per Feature Activation Charge shown in the following table each time a feature is used by the Customer. Customers may subscribe to these features on a monthly basis at their option to obtain unlimited use of these features for a fixed monthly charge.

| Optional Calling Features | Residence | Business |
|--|-----------|----------|
| Three-Way Calling | TBD | TBD |
| Call Return | TBD | TBD |
| Repeat Dialing | TBD | TBD |
| Calling Number Delivery Blocking, Per Call | TBD | TBD |

Denial of per call activation for Three-Way Calling, Call Return and Repeat Dialing from any line or trunk is available to Customers upon request at no additional charge.

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.8 Optional Calling Features, (Continued)

7.8.2 Features Offered on a Monthly Basis

The following optional calling features are offered to Customers on a monthly basis. Customers are allowed unlimited use of each feature. No usage sensitive charges apply. Multiline Customers must order the appropriate number of features based on the number of lines which will have access to the feature.

| Optional Calling Feature | Residence | Business |
|--|-----------|----------|
| Flexible Call Forwarding | | |
| Flexible Call Forwarding with Audio Calling Name | | |
| Flexible Call Forwarding Plus | | |
| Flexible Call Forwarding Plus with Audio Calling Name | | |
| Call Forwarding Variable | | |
| Call Forwarding Variable with Remote Access | | |
| Call Forwarding Don't Answer - Basic | | |
| Call Forwarding Don't Answer w/Ring Control | | |
| Call Forwarding Don't Answer w/Customer Control | | |
| Call Forwarding Busy Line - Basic | | |
| Call Forwarding Busy Line w/Customer Control | | |
| Call Waiting - Basic | | |
| Call Waiting - Deluxe | | |
| Call Waiting - Deluxe with Conferencing | | |

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SECTION 7.0 - LOCAL RESALE SERVICES PRICE LIST (CONTINUED)

7.8 Optional Calling Features, (Continued)

7.8.2 Features Offered on a Monthly Basis

| Optional Calling Feature (cont'd) | Residence | Business |
|--|-----------|----------|
| Caller ID - Basic | | |
| Caller ID - Deluxe | | |
| Caller ID - Deluxe | | |
| W / Anonymous Call Rejection | | |
| Anonymous Call Rejection | | |
| Call Block | | |
| Call Return | | |
| Call Selector | | |
| Call Tracing | | |
| Calling Number Delivery Blocking (per line equipped) | | |
| Message Waiting Indication - Audible | | |
| Message Waiting Indication - Audible and Visual | | |
| Multiple Directory Number Distinctive Ringing - First DN | | |
| Multiple Directory Number Distinctive Ringing - Second DN | | |
| Preferred Call Forwarding | | |
| Repeat Dialing | | |
| Speed Calling (30 codes) | | |
| Speed Calling (8 codes) | | |
| Three Way Calling | | |

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SECTION 8.0 - DIRECTORY ASSISTANCE AND LISTING SERVICES

8.1 Directory Listings

8.1.1 General

The following rules apply to standard listings in light face type in the white pages (alphabetical section) of the telephone directory and to the Directory Assistance records of the Company.

Only information necessary to identify the Customer is included in these listings. The Company use abbreviations in listings. The Company may reject a residence listing, which is judged to be advertising. It may also reject a listing it judges to be objectionable. A name made up by adding a term such as Company, Shop, Agency, Works, etc. to the name of a commodity or service willing to be accepted as a listing unless the subscriber is legally doing business under that name.

A name may be repeated in the white pages only when a different address or telephone number is used.

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SECTION 8.0 - DIRECTORY ASSISTANCE AND LISTING SERVICES

8.1 Directory Listings, (Continued)

8.1.2 Composition of Listings

(A) Names

The following names may be included in business service listings:

- (1) The name of subscriber or joint user.
- (2) The name of each business enterprise which the subscriber or joint user conducts.
- (3) The name by which the business of a subscriber or joint user is known to the public. Only one such name representing the same general line of business will be accepted.
- (4) The name of any person associated with the subscriber or joint user in the same business.
- (5) The name of any person, firm or organization which subscriber or joint user is authorized to represent, or the name of an authorized representative of the subscriber or joint user.
- (6) Alternative spelling of an individual name or alternative arrangement of a business name, provided the listing in the judgment of the Company, is not for advertising purposes. The name of a publication issued periodically by the subscriber or joint user.
- (7) The name of an inactive business organization in a cross-reference listing when authorized by such business or organization.
- (8) The name of a member of subscriber's domestic establishment when business service is furnished in the subscriber's residence.
- (9) The name of a corporation which is the parent or a subsidiary of the subscriber.
- (10) The name of a resident of a hotel, apartment house, boarding house or club which is furnished PBX service, may be included in a residence type listing with the telephone number of the PBX service.
- (11) The name of the subscriber to a sharing arrangement.

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SECTION 8.0 - DIRECTORY ASSISTANCE AND LISTING SERVICES

8.1 Directory Listings, (Continued)

8.1.2 Composition of Listings, (Continued)

(B) Designation

The purpose of a business designation is to identify the listed party and not to advertise the business. No designation of the nature of the business is included if this is sufficiently indicated by the name. Where a listed party is engaged in more than one general line of business, one additional business designation may be included in the listing when necessary to identify the listed party. When a listed party has two or more listed telephone number or two or more business addresses, designations indicating the branches of the organization may be included where necessary to assist the public in calling.

A designation may include a title to indicate a listed party's official position, but not the name of the firm or corporation with which the individual is connected. Individual names or titles are not shown following the name of a firm or corporation. A term such as "renting agent" may be included in a listing indented under the name of a building, provided the agent maintains a renting office in such a building.

A designation is not ordinarily provided in a residence type listing except for residential service as permitted under the terms of this tariff. A professional designation is permitted on residence service in the case of a physician, surgeon, dentist, osteopath, chiropodist, podiatrist, optometrist, chiropractor, physiotherapist, Christian Science practitioner, veterinary surgeon, registered nurse or licensed practical nurse, provided that the same name and designation is also listed on business service of that subscriber or another subscriber in the same or different directory.

The listing of service in the residence of a clergyman may include the designation "parsonage," "rectory," "parish house," or "manse," and any such listing may be indented under a listing in the name of the church. Where residence service is furnished in a church study, the listing may include the designation "study."

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SECTION 8.0 - DIRECTORY ASSISTANCE AND LISTING SERVICES

8.1 Directory Listings, (Continued)

8.1.2 Composition of Listings, (Continued)

(C) Address

Each residence or non-profit listing may, but does not have to, include the house number and street name of the residence where the telephone service is provided. Other information, such as a building name or a locality designation, may be included to help identify the Customer.

(D) Telephone Number

Each listing may include only one telephone number, except in an alternate telephone number listing where each number listed is considered a line for rate purposes.

A listing may include only the telephone number of the first line of a PBX system or incoming service group, except that a trunk not included in the incoming service group of a PBX system, or the first trunk of a separate incoming service group of a PBX system may be listed to meet special conditions where a corporation and its subsidiaries use the same PBX system.

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SECTION 8.0 - DIRECTORY ASSISTANCE AND LISTING SERVICES

8.1 Directory Listings, (Continued)

8.1.3 Types of Listings

(A) Standard Listing

A standard listing includes a name, designation, address and telephone number of the Customer. It appears in the White Pages of the telephone directory and in the Company's Directory Assistance records. The designation in the listing will be provided according to the rules in paragraph 5.13.2.2 above.

(B) Indented Listing

An indented listing appears under a standard listing and may include only a designation, address and telephone number. An indented listing is allowed only when a Customer is entitled to two or more listings of the same name with different addresses or different telephone numbers. For example:

| | |
|---------------------|----------|
| Smith, John MD | |
| Office 125 Portland | 555-4180 |
| Residence 9 Glenway | 555-8345 |

Such listing may be furnished as an indented listing or as a sub-caption. The telephone number in such a listing may be that of another service furnished the same subscriber or one of the subscriber's PBX trunks not included in the incoming service group, or the service furnished a different subscriber.

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SECTION 8.0 - DIRECTORY ASSISTANCE AND LISTING SERVICES

8.1 Directory Listings, (Continued)

8.1.3 Types of Listings, (Continued)

(C) Alternate Telephone Number Listing and Night Listing

Any listed party who has made the necessary arrangements for receiving telephone calls during his or her absence may have an alternate telephone number listing or a night listing, such as the following.

If no answer call (telephone number)
Night calls (telephone number)
Night calls after ____PM (telephone number)
Nights, Sundays and holidays (telephone number)
5PM to 9AM weekdays, Saturday until 9AM, Monday and holidays
(telephone number)

Such listing may be furnished as an indented listing or as a sub-caption. The telephone number in such a listing may be that of another service furnished the same subscriber or one of the subscriber's PBX trunks not included in the incoming service group, or the service furnished a different subscriber.

(D) Duplicate Listing

Any listing may be duplicated in a different directory or under a separate geographical heading in the same directory. Such listing may be duplicated in indented form.

(E) Reference Listing

A subscriber having exchange services listed under different geographical headings may have an indented listing in reference form in lieu of a duplicate listing.

(F) Cross Reference Listing

A cross reference listing may be furnished in the same alphabetical group with the related listing when required for identification of the listed party and not designated for advertising purposes.

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SECTION 8.0 - DIRECTORY ASSISTANCE AND LISTING SERVICES

8.1 Directory Listings, (Cont'd.)

8.1.4 Free Listings

The following listings are provided at no additional charge to the Customer: one listing for each individual line service, auxiliary line or PBX system.

8.1.5 Rates for Additional Listings - Business Customers

The following rates and charges apply to additional listings requested by the Customer over and above those free listings provided for in Section 8.1.4.

| Type of Listing | Residential Charge | Business Charge |
|---|--------------------|-----------------|
| Reference/Cross Reference: | | |
| - Each Listing | TBD | TBD |
| Alternate Telephone Number/Night Listing: | | |
| - Night, Sundays & Holidays | TBD | TBD |
| - First Line | TBD | TBD |
| Additional Listing | TBD | TBD |
| Foreign Listing | TBD | TBD |
| Dual Name Listing - Non Recurring | | |
| | TBD | TBD |

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SECTION 8.0 - DIRECTORY ASSISTANCE AND LISTING SERVICES

8.2 Non-Published Service

8.2.1 General

Non-published service means that the Customer's telephone number is not listed in the directory, nor does it appear in the Company's Directory Assistance Records.

8.2.2 Regulations

This service is subject to the rules and regulations for E911 service, where applicable.

The Company will complete calls to a non-published number only when the caller dials direct or gives the operator number. No exceptions will be made, even if the caller says it is an emergency.

When the Company agrees to keep a number unlisted, it does so without any obligation. Except for cases of gross negligence or willful misconduct, the Company is not liable for any damages that might arise from publishing a non-published number in the directory or disclosing it to some. If, in error, the telephone number is published in the directory, the Company's only obligation is to credit or refund any monthly charges the Customer paid for non-published service.

The subscriber indemnifies (i.e., promises to reimburse the Company for any amount the Company must pay as a result of) and save the Company harmless against any and all claims for damages caused or claimed to have been caused, directly or indirectly, by the publication of a non-published service or the disclosing of said number to any person.

8.2.3 Rates and Charges

There is a monthly charge for each non-published service. This charge does not apply if the Customer has other listed service at the same location; if the Customer lives in a hotel, boarding house or club with listed service; or if the service is installed for a temporary period.

Non-published service charge, per month

TBD

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SECTION 8.0 - DIRECTORY ASSISTANCE AND LISTING SERVICES

8.3 Non-Listed Service

8.3.1 General

Non-listed service means that the Customer's telephone number is not listed in the directory, but does it appear in the Company's Directory Assistance Records.

8.3.2 Regulations

This service is subject to the rules and regulations for E911 service, where applicable.

The Company will complete calls to a non-listed number.

When the Company agrees to keep a number unlisted, it does so without any obligation. Except for cases of gross negligence or willful misconduct, the Company is not liable for any damages that might arise from publishing a non-listed number in the directory or disclosing it to some. If, in error, the telephone number is listed in the directory, the Company's only obligation is to credit or refund any monthly charges the Customer paid for non-listed service.

The subscriber indemnifies (i.e., promises to reimburse the Company for any amount the Company must pay as a result of) and save the Company harmless against any and all claims for damages caused or claimed to have been caused, directly or indirectly, by the publication of a non-listed service or the disclosing of said number to any person.

8.3.3 Rates and Charges

There is a monthly charge for each non-listed service. This charge applies if the Customer has other listed service at the same location; if the Customer lives in a hotel, boarding house or club with listed service; or in the service is installed for a temporary period.

Non-listed service charge, per month: TBD

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SECTION 8.0 - DIRECTORY ASSISTANCE AND LISTING SERVICES

8.4 Directory Assistance Services

8.4.1 Directory Assistance

A Directory Assistance charge applies per local directory assistance call. The Customer may make two (2) requests for a telephone number per call. The Directory Assistance Charge applies regardless of whether the Directory Assistance operator is able to supply the requested number. No charge applies for the first call per month per residence line.

Each Local Directory Assistance Call

TBD

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SECTION 9.0 - RESERVED FOR FUTURE USE

9.1 Reserved For Future Use

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Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

MVX.COM COMMUNICATIONS, INC.
100 Rowland Way, Suite 145
Novato, CA 94945

South Dakota Tariff Number 1
Original Page 89

SECTION 10.0 - RESERVED FOR FUTURE USE

10.1 Reserved For Future Use

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

SECTION 11.0 - MISCELLANEOUS SERVICES

11.1 Carrier Presubscription

11.1.1 General

Carrier Presubscription is a procedure whereby a Customer designates to the Company the carrier which the Customer wishes to be the carrier of choice for intraLATA and interLATA toll calls. Such calls are automatically directed to the designated carrier, without the need to use carrier access codes or additional dialing to direct the call to the designated carrier. Presubscription does not prevent a Customer who has presubscribed to an IntraLATA or InterLATA toll carrier from using carrier access codes or additional dialing to direct calls to an alternative long distance carrier on a per call basis.

11.1.2 Presubscription Options - Customers may select the same carrier or separate carriers for intraLATA and interLATA long distance. The following options for long distance Presubscription are available:

- Option A:** Customer select the Company as the presubscribed carrier for IntraLATA and InterLATA toll calls subject to presubscription.
- Option B:** Customer may select the Company as the presubscribed carrier for IntraLATA calls subject to presubscription and some other carrier as the presubscribed carrier for interLATA toll calls subject to presubscription.
- Option C:** Customer may select a carrier other than the Company for intraLATA toll calls subject to presubscription and the Company for interLATA toll calls subject to presubscription.
- Option D:** Customer may select the carrier other than the Company for both intraLATA and interLATA toll calls subject to presubscription.
- Option E:** Customer may select two different carriers, neither being the Company for intraLATA and interLATA toll calls. One carrier to be the Customers' primary intraLATA interexchange carrier. The other carrier to be the Customer's primary interLATA interexchange carrier.
- Option F:** Customer may select a carrier other than the Company for no presubscribed carrier for intraLATA toll calls subject to presubscription which will require the Customer to dial a carrier access code to route all intraLATA toll calls to the carrier of choice for each call.

Issued:
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Effective:

SECTION 11.0 - MISCELLANEOUS SERVICES (CONTINUED)

11.1 Carrier Presubscription, (Continued)

11.1.3 Rules and Regulations

Customers of record will retain their primary interexchange carrier(s) until they request that their dialing arrangements be changed.

Customers of record or new Customers may select either Options A, B, C, D, E or F for intraLATA Presubscription.

Customers may change their selected Option and/or presubscribed toll carrier at any time subject to charges specified in 11.4.5 below:

11.1.4 Presubscription Procedures

A new Customer will be asked to select intraLATA and interLATA toll carriers at the time the Customer places an order to establish local exchange service with the Company. The Company will process the Customer's order for service. All new Customers initial requests for intraLATA toll service presubscription shall be provided free of charge.

If a new Customer is unable to make selection at the time the new Customer places an order to establish local exchange service, the Company will read a random listing of all available intraLATA and interLATA carriers to aid the Customer in selection. If selection is still not possible, the Company will inform the Customer that he/she will be given 90 calendar days in which to inform the Company of his/her choice for primary toll carrier(s) free of charge. Until the Customer informs the Company of his/her choice of primary toll carrier, the Customer will not have access to long distance services on a presubscribed basis, but rather will be required to dial a carrier access code to route all toll calls to the carrier(s) of choice. Customers who inform the Company of a choice for toll carrier presubscription within the 90-day period will not be assessed a service charge for the initial Customer request.

Customers of record may initiate an intraLATA or interLATA presubscription change at any time, subject to the charges specified in 11.4.5 below. If a Customer of record inquires of the Company of the carriers available for toll presubscription, the Company will read a random listing of all available intraLATA carriers to aid the Customer in selection.

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Effective:

SECTION 11.0 - MISCELLANEOUS SERVICES (CONTINUED)

11.1 Carrier Presubscription, (Continued)

11.1.5 Presubscription Charges

(A) Application of Charges

After a Customer's initial selection for a presubscribed toll carrier and as detailed in Paragraph 11.4.4 above, for any change thereafter, a Presubscription Change Charge, as set forth below will apply. Customers who request a change in intraLATA and interLATA carriers with the same order will be assessed a single charge per line.

(B) Nonrecurring Charges

Per business or residence line, trunk, or port

| | |
|--------------------------------|-----|
| Initial Line, or Trunk or Port | TBD |
| Additional Line, Trunk or Port | TBD |

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

SECTION 12.0 - RESERVED FOR FUTURE USE

12.1 [Reserved for Future Use]

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

SECTION 13.0 - RESERVED FOR FUTURE USE

13.1 [Reserved for Future Use]

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

SECTION 14.0 - RESERVED FOR FUTURE USE

14.1 [Reserved for Future Use]

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

SECTION 15.0 - PROMOTIONAL OFFERINGS

15.1 Special Promotions

The Company may from time to time engage in special promotional trial service offerings of limited duration (not to exceed ninety days on a per Customer basis for non-optional, recurring charges) designed to attract new subscribers or to increase subscriber awareness of a particular tariff offering. Requests for promotional offerings will be presented to the Commission for its review in accordance with rules and regulations established by the Commission, and will be included in the Carrier's tariff as an addendum to the Carrier's price lists.

15.2 Discounts

The Company may, from time to time as reflected in the price list, offer discounts based on monthly volume (or, when appropriate, "monthly revenue commitment" and/or "time of day" may also be included).

Issued:
Issued by:

Edward A. Brinskele, President
MOVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

EXHIBIT 5

MVX.COM's Service Brochure

EXHIBIT 5

MVX.COM's Service Brochure

POWER LINK SOLUTIONS

Access Power Link A is the ideal solution for a client's location that needs less than a full T1 of voice but also needs a Frame Relay node, and Internet access. This combination may be suited for a 30-50 person office that uses voice as its primary means of communication but still needs Frame Relay service to transfer information between other offices as well as Internet access for applications such as e-mail. Power Access Link A provides 16 channels reserved for voice traffic (local, long distance, and/or toll free service), a 256kbps Frame Relay node, and 256kbps Internet access.

Access Power Link B is the ideal solution for a client's location where voice communications takes a back seat to data communications. Power Access Link B offers a customer some heavy duty options for data transfer--a 512kbps Frame Relay node as well as a 512kbps to the Internet. In addition, 8 channels of voice are available to carry local, long distance, or toll free traffic. This package would be suitable for a small office with 10-20 people.

Frame Power Link is the ideal solution for a client location of 30-50 people that relies upon Frame Relay to carry heavy data traffic and applications. Power Frame Links offers a 384kbps Frame Relay node for large data transfers, along with 16 channels of voice that can be configured for local, long distance, and/or toll free service. Power Frame Link also provides the customer with 128kbps Internet access.

Internet Power Link is the ideal solution for a client's location that wants high speed access to the Internet in a location with approximately 30-50 people. Power Internet Link offers a 384kbps pipe to the Internet. In addition, it offers 14 lines of voice channels for local, long distance, and/or toll free service. Power Internet Link also accommodates a customer's need for Frame Relay service by including a 256kbps Frame Relay node.

Voice Power Link is the ideal solution for a client's location which requires close to a full T1 of voice but also needs minimal Frame Relay service and Internet access. This package may be suited to a small office that needs dedicated toll free or long distance service as well as local service in the form of 20 channels dedicated to voice traffic. Power Voice Link also bundles a 128kbps Frame Relay node and 128kbps Internet access all on the same T1.

Data Power Link is suited for a client location that already has its voice communications addressed and needs to add or beef up its data communications. Power Data Link provides very robust Frame Relay service and Internet access. A 1024kbps Frame Relay node is provided as well as a 512kbps pipe to the Internet.

BENEFITS AND FEATURES

- 32 IP addresses, Domain Name Service, and 100 DID numbers are included with all Power Link Solutions (where applicable)
- One stop shopping for all telecom services including equipment
- Prepackaged configurations--quick ordering
- Published pricing--no quotes necessary
- Minimal capital investment-- MVX provides the Adtran TSU120, a CSU/DSU with DSX interface
- Dedicated bandwidth for protected & rate-stabilized service
- 24x7x365 support
- Inherent reliability and redundancy with state-of-art SONET ring technology
- Reduced access charges by bundling services on a single T1
- Lower dedicated rates vs. switched rates

PRODUCT SPECIFICATIONS

- T1 facility only (no ISDN PRI facility)
- T1 Line coding: B8ZS
- T1 Framing: ESF
- 900/976 blocking provided
- Channels are nailed up (no dynamic assignment)

EQUIPMENT PARAMETERS

- MVX will provide an Adtran TSU 120 to interface between the Power Link Solution and a customer's PBX and router/FRAD
- The customer must purchase and maintain their own router (with FRAD capabilities) and PBX

OPTIONS:

- Additional private virtual circuits for Frame Relay is available at an additional MRC (priced by CIR) and an installation charge of \$30/PVC
- Network Management for Frame Relay also is available at \$265/month/router (offered through MVX's partner, Netsolve Communications)
- Network Security for Internet firewalls is available at \$1600/month/firewall and \$8000 installation charge/firewall (offered through MVX's partner, Netsolve Communications)
- non-verified account codes are available with long distance calling at no additional charge
- Hunting is available on voice channels at no additional charge
- Blocking is available on voice channels at no additional charge
- If a client location is outside the 5 mile radius, add \$20/mile to Monthly Recurring Charge

* pricing subject to change without notice

MV

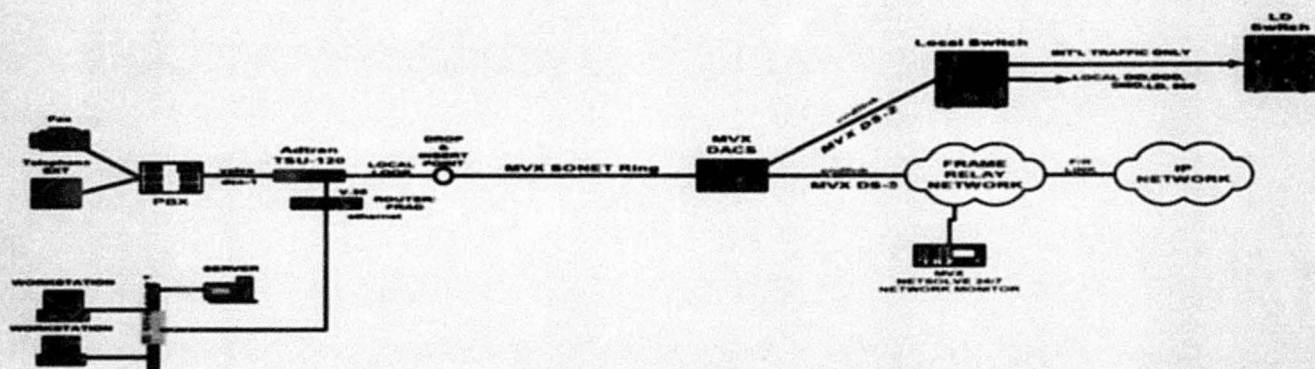


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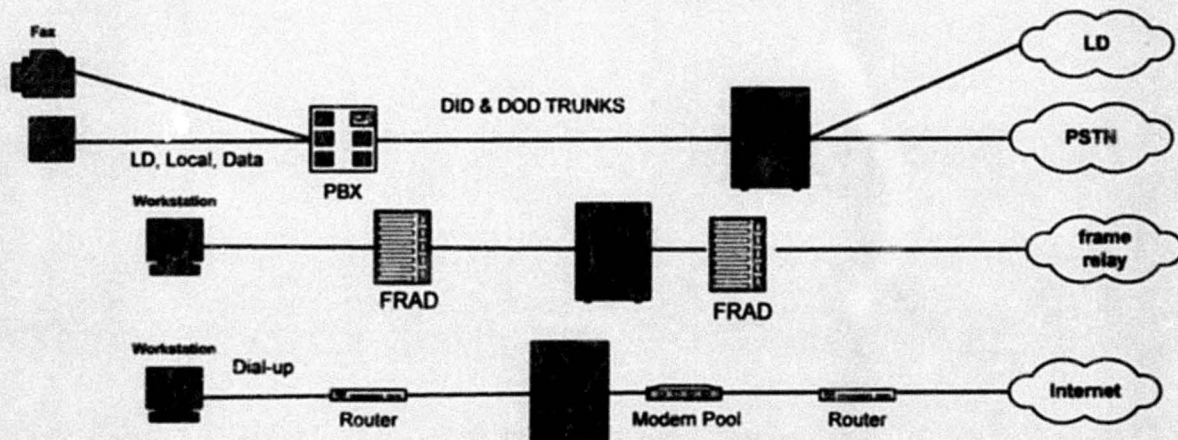
M V X . C O M

POWER LINK SOLUTION

POWER LINK SOLUTION



BEFORE

**VALUE PROPOSITION**

- Power Link Solutions allow our clients to take advantage of dedicated rates via a multi-use digital T1 product.
- MVX provides an Adtran TSU120, a state-of-the-art T1 CSU/DSU with DSX interface, so there's minimal capital expense required by the client & a more efficient provisioning process of the Power Link Solution.
- Pricing is based on type of service and package chosen.
- By using Digital Access and Cross-connect System (DACS) technology backed by MVX's SONET ring technology, MVX is able to provide our clients with one interface for all their telecommunication needs.

DATA SHEET

HEADQUARTERS SOLUTIONS

Headquarters Voice is the comprehensive solution for a customer's local, long distance, and/or toll free voice traffic. The Headquarters Voice Solution provides the client with 24 dedicated channels that they use for any combination of local, domestic toll free service, national and international long distance traffic. Included with the Headquarters Voice solution is a block of 100 DID numbers, a free listing in White Pages, access to Directory Assistance, free 900/976 blocking, hunting, and account codes (non-verified) for long distance calling. The client must have their own PBX with T1 card.

Headquarters Frame Relay is the ideal solution for a client who wants the advantages of private data circuits without the added cost of distance or packet charges. MVX.COM provides comprehensive frame relay service through seamless local-to-global connectivity that uses state-of-the-art switching technology. Headquarters Frame Relay is available in port connection speeds of 64, 128, 256, 384, 512, 768, and 1536kbps (and various Committed Information Rates (CIR)). The client must provide own FRAD or router with frame relay capabilities.

Headquarters Internet Access is for a client who wants a high speed connection to the Internet. Headquarters Internet Access provides a variety of connection speeds up to 1.536 Mbps to meet any client's needs. Included with Headquarters Internet Access is 32 IP addresses and Domain Name Service, along with global routing, 24x7 network monitoring, redundant circuit connections, and guaranteed bandwidth capacity. The client must provide their own router.

Headquarters Metered Internet is the ideal solution for a client who need an always on, high speed Internet connection but prefers a more affordable pricing plan based on usage. Headquarters Metered Internet is engineered for bursty Internet traffic through dynamic allocation of bandwidth. The client receives a full T1, but is only charged for the amount of bandwidth that is used. IP addresses are assigned based on the number of workstations or on an as-needed basis. Up to 32 IP addresses and Domain Name Service are included. There may be an additional charge for more IP addresses. The client must provide their own router.

Headquarters SDSL provides a fast, always on digital connection at the fraction of the cost of traditional high speed solutions. If the client has the capability built into their routers or servers, virtual private networking can be done so branch offices can have a secure connection to the corporate Intranet. Headquarters SDSL allows the client to pay only for the bandwidth required with only an incremental cost to increase connection speed. Headquarters SDSL is available in 160, 200, 416, 784, 1040, and 1536kbps bandwidth increments. The client also receives 8 static IP addresses, 5 e-mail accounts, Domain Name Service, and 6MB Web Site Hosting with the Headquarters SDSL Solution. MVX.COM will provide a DSL router at an additional charge. The client's location must be within 18kft from a DSL-equipped central office.

BENEFITS AND FEATURES

- Prepackaged configurations--quick ordering
- Published pricing--no quotes necessary
- Dedicated bandwidth for protected & rate-stabilized service
- 24x7x365 support
- Inherent safety of state-of-art SONET ring technology

PRODUCT SPECIFICATIONS

- T1 facility only (no ISDN PRI facility)
- T1 Line coding: B8ZS
- T1 Framing: ESF

OPTIONS:

- Additional private virtual circuits for Frame Relay is available at an additional MRC (priced by CIR) and an installation charge of \$30/PVC
- Network Management for Frame Relay also is available at \$265/month/router (offered through MVX's partner, Netsolve Communications)
- Network Security for Internet firewalls is available at \$1600/month/firewall and \$8000 installation charge/firewall (offered through MVX's partner, Netsolve Communications)
- If a client location is outside the 5 mile radius, add \$20/mile to Monthly Recurring Charge

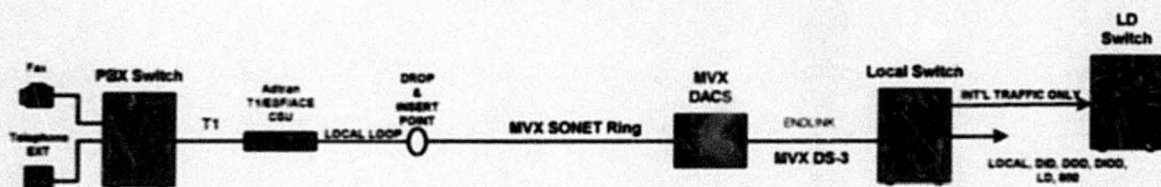
- pricing subject to change without notice

VALUE PROPOSITION

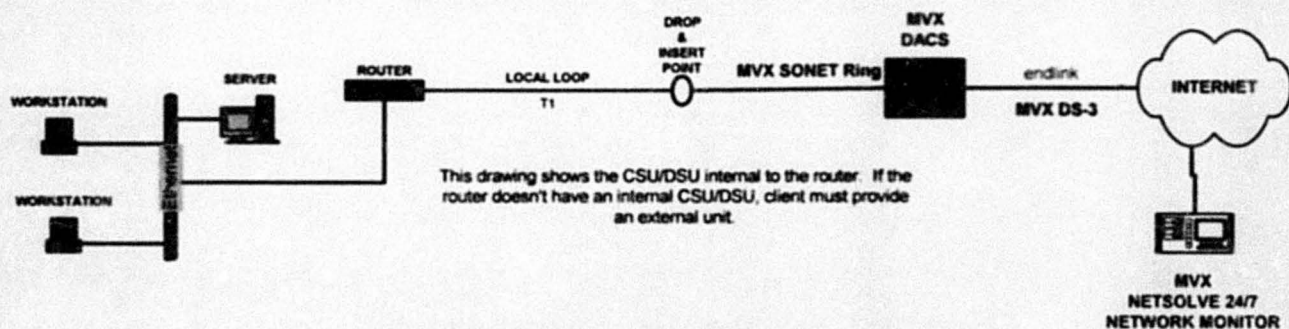
- The Headquarters Solution offers our clients dedicated digital T1 products for voice, Internet, or Frame Relay Service.
- MVX.COM provides an Adtran T1 CSU ACE, a state-of-the-art T1 interface, with the Headquarters Voice Solution so there's minimal capital expense required by the client and a more efficient provisioning process.
- By using Digital Access and Cross-connect System (DACS) technology backed by MVX.COM's SONET ring technology, MVX is able to provide our clients with one interface for all their telecommunication needs.
- Pricing is based on types of service and bandwidth needed.

HEADQUARTERS SOLUTIONS

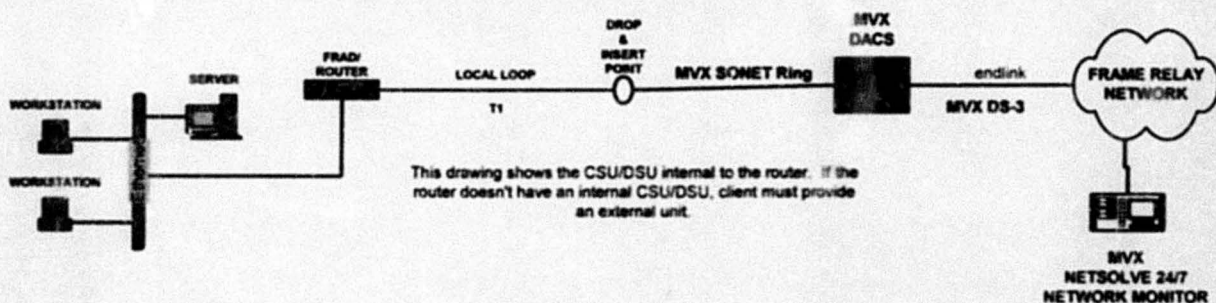
HEADQUARTERS VOICE



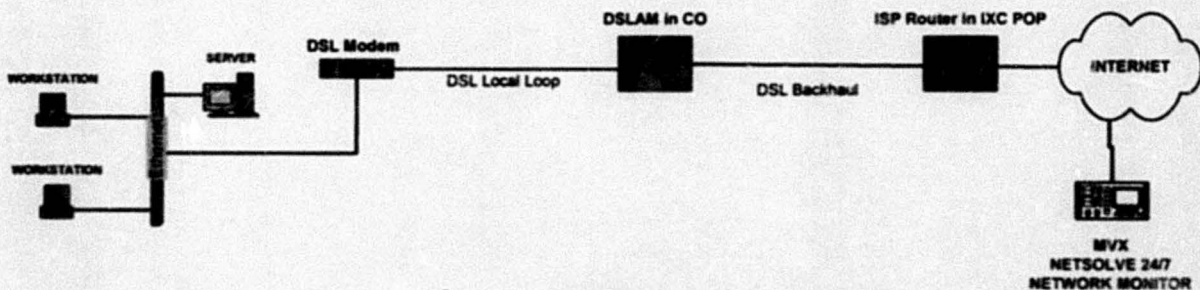
HEADQUARTERS INTERNET ACCESS & METERED INTERNET



HEADQUARTERS FRAME RELAY



HEADQUARTERS SDSL



EXPRESS OFFICE SOLUTIONS

Express Office Frame Solutions A & B are ideal for a client's location that needs less than a full T1 of voice but also needs a Frame Relay service. These may be suited for a 30-50 person office that uses voice as its primary means of communication but still needs Frame Relay service to transfer information between other offices. Express Office Tech Solution A provides 12 channels reserved for voice traffic (local, long distance, and/or toll free service) and a 768kbps Frame Relay node, whereas Express Office Tech Solution B provides 16 channels for voice traffic and a 512kbps Frame Relay node. Included with these Solutions is a block of 100 DID numbers, a free listing in White Pages, access to Directory Assistance, free 900/976 blocking, hunting, and account codes (non-verified) for long distance calling. The client must provide own FRAD or router with frame relay capabilities and a PBX (with T1 card).

Express Office Internet Solutions A & B are ideal for a client's location that needs less than a full T1 of voice but also needs Internet access. Solution A provides 18 channels of voice (local, long distance, and/or toll free service) and 384kbps of Internet access, whereas Solution B provides 16 channels dedicated to voice traffic and 512kbps of Internet access. Included with these Solutions is a block of 100 DID numbers, a free listing in White Pages, access to Directory Assistance, free 900/976 blocking, hunting, and account codes (non-verified) for long distance calling. In addition, 32 IP addresses, Domain Name Service, along with global routing, 24X7 network monitoring, redundant circuit connections, and guaranteed bandwidth capacity are provided with the Express Office Internet Solutions. The client must provide own router and a PBX (with T1 card).

Express Office Tech Solution is a non-integrated bundled solution for clients who want a full T1 of voice and SDSL service at one location. Express Office Tech Solution offers 24 channels for local, domestic and international long distance, and toll free service. Included is a block of 100 DID numbers, a free listing in White Pages, access to Directory Assistance, free 900/976 blocking, hunting, and account codes (non-verified) for long distance calling. In addition, 416kbps of SDSL bandwidth, along with 8 static IP addresses, 5 e-mail accounts, Domain Name Service, and 6MB Web Site Hosting is provided with the Express Office Solution. MVX.COM will provide the client with an SDSL router at an additional charge but the client must provide a PBX (with T1 card). The client location must be within 18kft from a DSL-equipped central office.

BENEFITS AND FEATURES

- Benefits and Features
- One stop shopping for all telecom services including equipment
- Prepackaged configurations--quick ordering
- Published pricing--no quotes necessary
- Minimal capital investment-- MVX provides the Adtran TSU120, a CSU/DSU with DSX interface (or Adtran T1 CSU ACE with the Express Office Solution)
- Dedicated bandwidth for protected & rate-stabilized service
- 24x7x365 support
- Inherent reliability and redundancy with state-of-art SONET ring technology
- Reduced access charges by bundling services on a single T1
- Lower dedicated rates vs. switched rates

PRODUCT SPECIFICATIONS

- T1 facility only (no ISDN PRI facility)
- T1 Line coding: B8ZS
- T1 Framing: ESF
- Channels are nailed up (no dynamic assignment)

EQUIPMENT PARAMETERS

- MVX will provide an Adtran TSU 120 to interface between the Express Office Solution and a customer's PBX and router/FRAD (Adtran T1 CSU ACE is provided with the Express Office Solution)
- The customer must purchase and maintain their own router (with FRAD capabilities), DSL modem and PBX T1 card (where applicable)

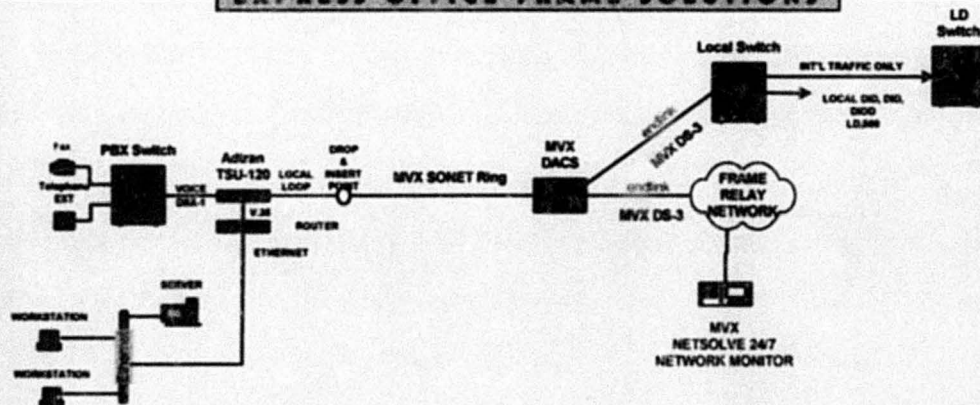
OPTIONS:

- Additional private virtual circuits for Frame Relay are available at an additional MRC (priced by CIR) and an installation charge of \$30/PVC
- Network Management for Frame Relay is available at \$265/month/router (offered through MVX's partner, Netsolve Communications)
- Network Security for Internet firewalls is available at \$1600/month/firewall and \$8000 installation charge/firewall (offered through MVX's partner, Netsolve Communications)
- Non-verified account codes are available with long distance calling at no additional charge
- Hunting is available on voice channels at no additional charge
- Blocking is available on voice channels at no additional charge
- If a client location is outside the 5 mile radius, add \$20/mile to Monthly Recurring Charge

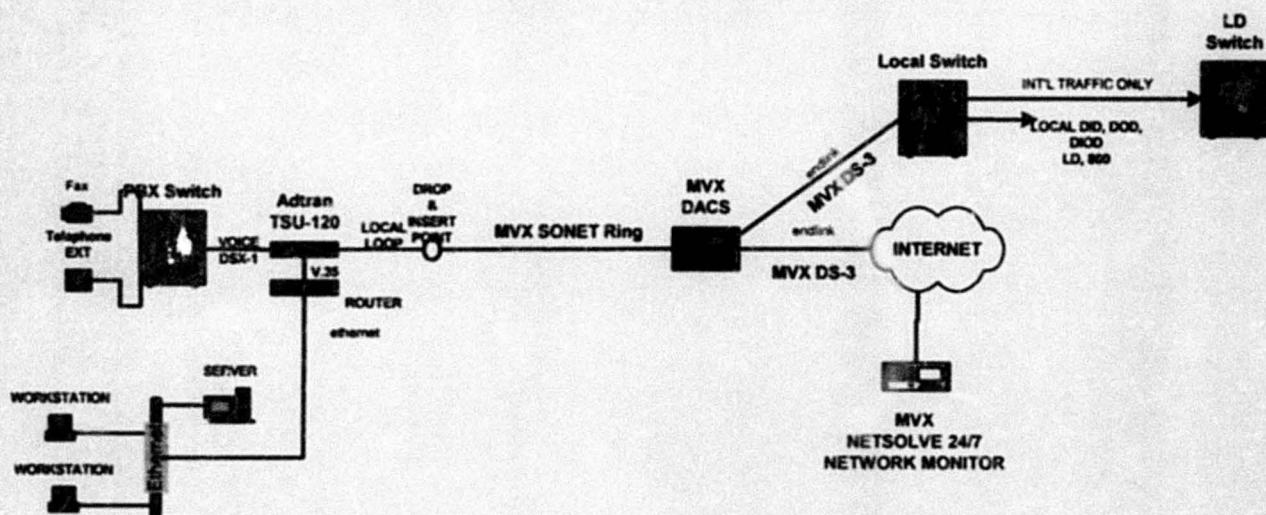
* pricing subject to change without notice

EXPRESS OFFICE SOLUTIONS

EXPRESS OFFICE FRAME SOLUTIONS



EXPRESS OFFICE INTERNET SOLUTIONS



VALUE PROPOSITION

- The Express Office Solution allows our clients to take advantage of dedicated rates via a multi-use digital T1 product.
- MVX provides an Adtran TSU120, a state-of-the-art T1 CSU/DSU with DSX interface, so there's minimal capital expense required by the client & quicker provisioning (for the Express Office Tech Solution, MVX provides an Adtran T1 CSU ACE as the T1 interface).
- Our clients can combine local, long distance, and toll-free service with Frame Relay or high speed Internet access onto a single T1 for a simple, reliable, and cost-effective solution.
- Pricing is based on the types of service and package that is chosen.
- By using Digital Access and Cross-connect System (DACS) technology backed by MVX's SONET ring technology, MVX is able to provide our clients with one interface for all their telecommunication needs.

EXHIBIT 6

MVX.COM's Dialing Parity Plan

MVX.COM Communications, Inc. (MVX.COM)
IntraLATA Dialing Parity and Presubscription Implementation Plan

I. Purpose

The intent of this Plan is to provide a proposal that, upon implementation, would provide customers the ability to select the telecommunications carrier of their choice for routing their intraLATA toll calls.

II. Carrier Selection Procedures

MVX.COM will implement the full 2-PIC (Primary Interexchange Carrier) carrier selection methodology. With the full 2-PIC methodology, customers will be able to presubscribe to one telecommunications carrier for interLATA toll calls and presubscribe to the same or a different participating telecommunications carrier, including their existing local exchange company, for all intraLATA toll calls. Orders for changes will be accepted and processed beginning on the implementation date.

MVX.COM employees who communicate with the public, accept customer orders, and serve in customer service capacities will be trained to explain the process to customers for making PIC changes for intraLATA toll calls. Business Office personnel will be prepared to make changes in customer records based upon requests from customers or carriers and direct customers to their chosen intraLATA carriers. Processes will be in place to provide new customers with an opportunity to choose their intraLATA toll carrier from a list of available carriers.

New Customers

Customers who contact MVX.COM requesting new telephone exchange service will be provided a list of telecommunications carriers available to provide interLATA toll service. Upon implementation of intraLATA toll presubscription, the customer will be provided a second list of carriers, including MVX.COM, that provide intraLATA toll service in their exchange. The list of intraLATA toll carriers will be presented in a competitively neutral manner. Customers who do not make a positive choice for an intraLATA toll carrier will be identified within MVX.COM's system as a "no-PIC" and will not be automatically defaulted to a carrier. Customers identified as "no-PIC" within MVX.COM's systems will be required to dial 10XXX to place intraLATA toll calls until they make an affirmative choice for an intraLATA toll carrier.

III. Customer Education/Notification

Customers will receive information explaining their opportunity to select an intraLATA carrier a minimum of 30 days in advance of the offering of intraLATA toll dialing parity via a bill message. In addition, during the 30 days following implementation of intraLATA Dialing Parity, customers will receive a bill insert also explaining their opportunity to select an intraLATA carrier. MVX.COM anticipates that promotional strategies by carriers will contribute to customer awareness of intraLATA toll dialing parity. Customer telephone directories will be updated as new editions are published to reflect the opportunity for customers to choose an intraLATA toll carrier.

IV. Carrier Notification

Current interexchange carriers will be notified of MVX.COM's intraLATA toll dialing parity implementation via letter approximately 90 days in advance of the proposed implementation date. Carriers should provide a list of exchanges in which they plan to offer intraLATA toll service at least 60 days in advance of MVX.COM's implementation date. MVX.COM needs notification in advance to include the carrier on the list of participating carriers in each MVX.COM exchange. Certified carriers who enter the market after implementation will be added to the list of participating carriers within 30 days of notifying MVX.COM.

MVX.COM will provide subscriber listing information to carriers in "readily accessible" tone or electronic formats in a timely manner as requested through the processes that currently exist for the interLATA market. The process includes subscriber listing updates to carriers for new customers who choose that carrier or of existing customers of a carrier who revise their subscriber listing information. In addition, carriers can obtain complete subscriber listings in several formats. The provision of this information is in compliance with FCC Order No. 96-333, Paragraph 389.

MVX.COM will comply with Part 51, Sections, 305, 307, 325, 327, 329, 331, 333 and 335 of the FCC Order in providing the required information and notice to the public of network changes. MVX.COM plans to file a public notice with the FCC, with possible migration of the notice to the Internet process as described in Section 329. The notice will include network information as outlined in Section 327. The notice will be provided within the timeframes described in Sections 331-333.

EXHIBIT 7

Copy of the Agreement and Plan of Merger of MVX Communications, LLC

**SECRETARY OF STATE**

I, *BILL JONES*, Secretary of State of the State of California, hereby certify:

That the attached transcript of 8 page(s) has been compared with the record on file in this office, of which it purports to be a copy, and that it is full, true and correct.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of

MAY 27 1999

Bill Jones

Secretary of State

MAY - 7 1999

BILL JONES, Secretary of State

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the "Agreement") is entered into as of March 5, 1999 by and between MVX COMMUNICATIONS LLC, a Nevada limited liability company ("MVX LLC"), and MVX.COM COMMUNICATIONS, INC., a California corporation ("MVX.COM COMMUNICATIONS").

RECITALS

A. MVX LLC is owned by MVX.COM, a California corporation, and its wholly-owned subsidiary, MVX COMMUNICATIONS, INC., a California corporation, which are its sole Members.

B. MVX.COM COMMUNICATIONS is a newly formed corporation, wholly-owned by MVX.COM, which has been incorporated for the purpose of having MVX LLC merge with and into it (the "Merger").

AGREEMENT

NOW, THEREFORE, as and for an agreement and plan of merger, the parties hereby agree as follows:

1. **Effective Date of Merger.** The Merger shall become effective when this Agreement and the Officer's Certificate or Certificate of Merger of each of the constituent entities are filed with the Secretary of State of the State of California, as required by Section 1113 and Section 17551 of the California Corporations Code. The date on which the Merger shall become effective is referred to herein as the "Effective Date."

2. **Effect of Merger.** On the Effective Date, MVX LLC shall be merged with and into MVX.COM COMMUNICATIONS pursuant to the terms and conditions of this Agreement and in accordance with the applicable provisions of California law. On and after the Effective Date, MVX.COM COMMUNICATIONS shall continue in existence as the surviving entity (the post-merger MVX.COM COMMUNICATIONS being sometimes referred to hereinafter as the "Surviving Corporation"). The corporate identity, existence, purposes, powers, rights and immunities of MVX.COM COMMUNICATIONS as the Surviving Corporation shall continue unaffected and unimpaired by the Merger. The separate existence and organization of MVX LLC as a limited liability company shall cease on the Effective Date, and MVX.COM COMMUNICATIONS shall succeed to and possess all the properties, rights, privileges, powers, franchises, immunities and purposes, and be subject to all the debts, liabilities, obligations, restrictions, disabilities, penalties and duties, of MVX LLC, all without further act or deed.

3. **Articles of Incorporation and Bylaws.** The Articles of Incorporation and Bylaws of the Surviving Corporation are not amended by this Agreement or the Merger.

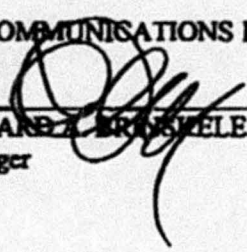
4. **Directors and Officers.** From and after the Effective Date, the persons who are serving as Directors and as officers of MVX.COM COMMUNICATIONS immediately prior to

the Effective Date shall be the Directors and officers of the Surviving Corporation.

5. **Cancellation of Member Interests.** Upon the Effective Date, the Member Interests of the Members of MVX LLC shall automatically be cancelled, by virtue of the Merger and without other action, and without consideration.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year first set forth above.

MVX COMMUNICATIONS LLC

By 
EDWARD A. BRINSKELE,
Manager

MVX.COM COMMUNICATIONS, INC.

By 
EDWARD BRINSKELE, President

By 
JEFFREY G. RICHARDS, Secretary

MVX.COM COMMUNICATIONS, INC.

**CERTIFICATE OF APPROVAL
OF
AGREEMENT OF MERGER**

EDWARD A. BRINSKELE and JEFFREY G. RICHARDS certify that:

1. They are the President and Secretary, respectively, of MVX.COM COMMUNICATIONS, INC., a California corporation (the "Corporation").
2. The Agreement and Plan of Merger executed on March 5, 1999 in the form attached to this Certificate as **Exhibit A** was duly approved by the Board of Directors and shareholders of the Corporation.
3. The shareholder approval was by the holder of 100% of the outstanding shares of the Corporation.
4. There is one class of shares, and the number of shares outstanding is 100,000.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this Agreement are true and correct of our own knowledge.

Date: March 5, 1999.



EDWARD A. BRINSKELE, President



JEFFREY G. RICHARDS, Secretary



State of California
Secretary of State
Bill Jones

LIMITED LIABILITY COMPANY - CERTIFICATE OF MERGER

WHEN COMPLETING FORM, PLEASE TYPE OR PRINT IN BLACK INK.

IMPORTANT - Read The Instructions On The Back Of This Form Before Completing.

THIS SPACE FOR FILING USE ONLY

| | | | |
|--|-----------------------------------|---------------------------------|--|
| 1. Name of surviving entity: MVX.COM Communications, Inc. | 2. Type of entity: Corporation | 3. File number: 2074425 | 4. Jurisdiction of organization: California |
| 5. Name of disappearing entity: MVX Communications, LLC | 6. Type of entity: LLC | 7. File number: 101998035016 | 8. Jurisdiction of organization: Nevada |

9. If a vote was required pursuant to Section 17551 or Section 1200 et seq., enter each class entitled to vote and the percentage of vote required:

Surviving Entity

Disappearing Entity

Each class entitled to vote

Percentage of vote required

Each class entitled to vote

Percentage of vote required

Common Stock

Over 50%

Members

Over 50%

10. The principal terms of the agreement of merger were approved by a vote of the number of interests or shares of each class that equaled or exceeded the vote required: ☒ Yes ☐ No

IF THE SURVIVING ENTITY IS A DOMESTIC LIMITED LIABILITY COMPANY, COMPLETE ITEM 11 AND PROCEED TO ITEM 14.

11. Requisite changes to the information set forth in the articles of organization of the surviving limited liability company resulting from the merger. Attach additional pages if necessary.

N/A

IF THE SURVIVING ENTITY IS A FOREIGN LIMITED LIABILITY COMPANY OR OTHER BUSINESS ENTITY, SKIP ITEM 11 AND COMPLETE ITEMS 12 THROUGH 15.

12. Principal business address of the surviving foreign limited liability company or other business entity:

Address: 100 Rowland Way, Suite 145

City: Novato

State: CA

Zip Code: 94945

13. Other information required to be stated in the certificate of merger pursuant to the laws under which each constituent other business entity was organized. Attach additional pages if necessary.

See attached Articles of Merger for the State of Nevada

14. Future effective date, if any:

Upon filing

15. Number of pages attached, if any:

5

16. I certify that the statements contained in this document are true and correct of my own knowledge. I declare that I am the person who is executing this instrument, which execution is my act and deed. Attach additional signature pages, if necessary.

Signature of authorized person for the surviving entity

Signature of authorized person for the surviving entity

Signature of authorized person for the surviving entity

Signature of authorized person for the disappearing entity

Edward A. Brinskele, President

Type or print name and title of person signing

Jeffrey G. Richards, Secretary

Type or print name and title of person signing

Edward A. Brinskele, Manager

Type or print name and title of person signing

Type or print name and title of person signing

MVX COMMUNICATIONS LLC

ARTICLES OF MERGER

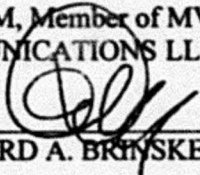
The undersigned, the duly elected and acting President and Secretary, respectively, of each of MVX.COM and of MVX COMMUNICATIONS, INC., each of which corporations is a California corporation and which are the two and only Members of MVX COMMUNICATIONS LLC, hereby certify:

1. MVX COMMUNICATIONS LLC, a Nevada limited liability company, and MVX.COM COMMUNICATIONS, INC., a California corporation, have agreed to merge.
2. A plan of merger entitled "Agreement and Plan of Merger," duly executed and dated as of March 5, 1999, has been adopted by each constituent merging entity named above in Section 1 (the "Plan of Merger").
3. A true and correct copy of the entire Plan of Merger is set forth as **Exhibit A** to these Articles.
4. The two and only Members of MVX COMMUNICATIONS, LLC unanimously approved the Plan of Merger.
5. As stated in the Plan of Merger, the Articles of Incorporation of MVX.COM COMMUNICATIONS, INC., the surviving entity, will not be amended as a result of the merger.

We further declare under penalty of perjury under the laws of the State of Nevada that the matters set forth in these Articles are true and correct of our own knowledge.

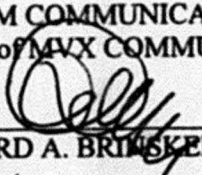
Date: March 5, 1999

MVX.COM, Member of MVX
COMMUNICATIONS LLC

By 
EDWARD A. BRINSKELE,
President

By 
JEFFREY G. RICHARDS, Secretary

MVX.COM COMMUNICATIONS, INC.,
Member of MVX COMMUNICATIONS LLC

By 
EDWARD A. BRINSKELE,
President

By 
JEFFREY G. RICHARDS, Secretary

EXHIBIT A
AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER

THIS AGREEMENT AND PLAN OF MERGER (the "Agreement") is entered into as of March 5, 1999 by and between MVX COMMUNICATIONS LLC, a Nevada limited liability company ("MVX LLC"), and MVX.COM COMMUNICATIONS, INC., a California corporation ("MVX.COM COMMUNICATIONS").

RECITALS

A. MVX LLC is owned by MVX.COM, a California corporation, and its wholly-owned subsidiary, MVX COMMUNICATIONS, INC., a California corporation, which are its sole Members.

B. MVX.COM COMMUNICATIONS is a newly formed corporation, wholly-owned by MVX.COM, which has been incorporated for the purpose of having MVX LLC merge with and into it (the "Merger").

AGREEMENT

NOW, THEREFORE, as and for an agreement and plan of merger, the parties hereby agree as follows:

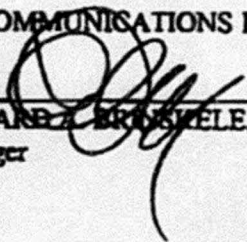
1. **Effective Date of Merger.** The Merger shall become effective when this Agreement and the Officer's Certificate or Certificate of Merger of each of the constituent entities are filed with the Secretary of State of the State of California, as required by Section 1113 and Section 17551 of the California Corporations Code. The date on which the Merger shall become effective is referred to herein as the "Effective Date."
2. **Effect of Merger.** On the Effective Date, MVX LLC shall be merged with and into MVX.COM COMMUNICATIONS pursuant to the terms and conditions of this Agreement and in accordance with the applicable provisions of California law. On and after the Effective Date, MVX.COM COMMUNICATIONS shall continue in existence as the surviving entity (the post-merger MVX.COM COMMUNICATIONS being sometimes referred to hereinafter as the "Surviving Corporation"). The corporate identity, existence, purposes, powers, rights and immunities of MVX.COM COMMUNICATIONS as the Surviving Corporation shall continue unaffected and unimpaired by the Merger. The separate existence and organization of MVX LLC as a limited liability company shall cease on the Effective Date, and MVX.COM COMMUNICATIONS shall succeed to and possess all the properties, rights, privileges, powers, franchises, immunities and purposes, and be subject to all the debts, liabilities, obligations, restrictions, disabilities, penalties and duties, of MVX LLC, all without further act or deed.
3. **Articles of Incorporation and Bylaws.** The Articles of Incorporation and Bylaws of the Surviving Corporation are not amended by this Agreement or the Merger.
4. **Directors and Officers.** From and after the Effective Date, the persons who are serving as Directors and as officers of MVX.COM COMMUNICATIONS immediately prior to

the Effective Date shall be the Directors and officers of the Surviving Corporation.

5. **Cancellation of Member Interests.** Upon the Effective Date, the Member Interests of the Members of MVX LLC shall automatically be cancelled, by virtue of the Merger and without other action, and without consideration.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date and year first set forth above.

MVX COMMUNICATIONS LLC

By 
EDWARD BRINSKELE,
Manager

MVX.COM COMMUNICATIONS, INC.

By 
EDWARD BRINSKELE, President

By 
JEFFREY G. RICHARDS, Secretary



Lance J.M. Steinhart
Attorney At Law
6455 East Johns Crossing
Suite 285
Duluth, Georgia 30097

Also Admitted in New York
and Maryland

Telephone: (770) 232-9200
Facsimile: (770) 232-9208

January 11, 2000

VIA FEDERAL EXPRESS

Mr. William Bullard
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501-5070
(605) 773-3201

RECEIVED

JAN 12 2000

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Re: MVX.COM Communications, Inc. - TC99-111

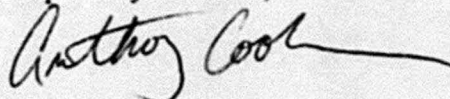
Dear Mr. Bullard:

Enclosed please find one original and ten (10) copies of MVX.COM Communications, Inc.'s responses to Staff's request for additional information in MVX.COM Communications, Inc.'s Amended Application for Registration of a Telecommunications Company to Provide Local Exchange Service in TC99-111.

I have enclosed an extra copy of this letter to be date stamped and returned to me in the enclosed self-addressed prepaid envelope.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Anthony Cooke
Director of Government Affairs for
Lance J.M. Steinhart
Attorney for MVX.COM Communications, Inc.

Enclosures

cc: Mr. Edward A. Brinskele (w/enc)

1. A copy of the Application for a Certificate of Authority from the South Dakota Secretary of State for MVX.COM Communications, Inc., is attached hereto as Exhibit 1.
2. MVX.COM Communications, Inc.'s Statement of Cash Flows is attached hereto as Exhibit 2.
3. Edit to Section 2.6.2(F) of MVX.COM Communications, Inc.'s tariff is attached hereto as Exhibit 3.
4. MVX.COM Communications, Inc.'s address and toll free number have been added to its tariff along with the Commission's toll free number. Revised tariff sheets are attached hereto as Exhibit 4.
5. Revised sheets to MVX.COM Communications, Inc.'s tariff omitting sections 2.1.4(A), 2.1.4(B), 2.1.4(C), 2.1.4(D)(8), 2.1.4(D)(11), 2.1.4(F), 2.3.2(A), 2.3.2(B), 2.3.2(C), and 2.7.2(H) are attached hereto as Exhibit 5.
6. Revised sheet to MVX.COM Communications, Inc.'s tariff in section 2.6.7 is attached hereto as Exhibit 6.

EXHIBIT 1

**Certificate of Authority from the South Dakota Secretary of State for
MVX.COM Communications, Inc.**



Secretary of State
State Capitol
500 E. Capitol Ave.
Pierre SD 57501
Phone 605-773-4845
Fax 605-773-4590

FILE NO. _____
RECEIPT NO. _____

Application for Certificate of Authority

Pursuant to the provisions of SDCL 47-2-7, the undersigned corporation hereby applies for a Certificate of Authority to transact business in the State of South Dakota and for that purpose submits the following statement:

(1) The name of the corporation is MVX.COM COMMUNICATIONS, INC.
(exact corporate name)

(2) If the name of the corporation does not contain the word "corporation", "company", "association" or "limited" or does not contain an abbreviation of one of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this state is N/A

(3) State where incorporated California Federal Taxpayer ID# 68-0426815

(4) The date of its incorporation is February 17, 1999 and the period of its duration, which may be perpetual, is perpetual

(5) The address of its principal office in the state or country under the laws of which it is incorporated is 75, Boyland Way, First Floor, Novato, CA Zip Code 94945
mailing address if different than above is _____ Zip Code _____
state _____

Zip Code _____

(6) The street address, or a statement that there is no street address, of its proposed registered office in the State of South Dakota is _____ Zip Code _____
and the name of its proposed registered agent in the State of South Dakota at that address is _____

(7) The purposes which it proposes to pursue in the transaction of business in the State of South Dakota are: (state specific purposes)
Telecommunication services

(8) The names and respective addresses of its directors and officers are:

| Name | Office Title | Street Address | City | State | Zip |
|--------------|--------------|----------------|------|-------|-----|
| See attached | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

(9) The aggregate number of shares which it has authority to issue, identified by classes, par value of shares, shares without par value, and series, if any, within a class is:

| Number of shares | Class | Series | Par value per share or statement that shares are without par value |
|------------------|--------|--------|--|
| 1,000,000 | Common | N/A | No Par |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

(10) The aggregate number of its issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class, is:

| Number of shares | Class | Series | Par value per share or statement that shares are without par value |
|------------------|--------|--------|--|
| 100,000 | Common | N/A | No Par |
| | | | |
| | | | |

(11) The amount of its stated capital is \$ 1,000

Shares issued times par value equals stated capital. In the case of no par value stock, stated capital is the consideration received for the issued shares.

(12) This application is accompanied by a CERTIFICATE OF FACT or a CERTIFICATE OF GOOD STANDING duly acknowledged by the Secretary of State or other officer having custody of corporate records in the state or country under whose laws it is incorporated.

(13) That such corporation shall not directly or indirectly combine or make any contract with any incorporated company, foreign or domestic, through their stockholders or the trustees or assigns of such stockholders, or with any copartnership or association of persons, or in any manner whatever to fix the prices, limit the production or regulate the transportation of any product or commodity so as to prevent competition in such prices, production or transportation or to establish excessive prices therefor.

(14) That such corporation, as a consideration of its being permitted to begin or continue doing business within the State of South Dakota, will comply with all the laws of the said State with regard to foreign corporations.

The application must be signed, in the presence of a notary public, by the chairman of the board of directors, or by the president or by another officer.

I DECLARE AND AFFIRM UNDER THE PENALTY OF PERJURY THAT THIS APPLICATION IS IN ALL THINGS, TRUE AND CORRECT.

Dated April 9 1999

William E. Horwich

(Signature)
WILLIAM E. HORWICH, Assistant Secretary
(Title)

STATE OF CALIFORNIA
COUNTY OF ALAMEDA

I, William E. Horwich, a notary public, do hereby certify that on this 9th day of April 1999, personally appeared before me William E. Horwich, who, being by me first duly sworn, declared that he/she is the Assistant Secretary of MVX.COM COMMUNICATIONS, INC., that he/she signed the foregoing document as officer of the corporation, and the statements therein contained are true.

4/28/2000
My Commission Expires



Notarial Seal

Valerie Kinavey
(Signature)
Notary Public

The Consent of Appointment below must be signed by the registered agent listed in number six.

MVX.COM COMMUNICATIONS, INC.
LIST OF DIRECTORS AND OFFICERS

Directors:

Name and Address**Office**

Edward A. Brinskele
75 Rowland Way, First Floor
Novato, CA 94945

Director

Thomas R. Rice
75 Rowland Way, First Floor
Nevada, CA 94945

Director

Jeffrey G. Richards
75 Rowland Way, First Floor
Novato, CA 94945

Director

Offers:

Edward A. Brinskele
75 Rowland Way, First Floor
Novato, CA 94945

President and Chief Executive Officer

Jeffrey G. Richards
75 Rowland Way, First Floor
Novato, CA 94945

Secretary

Kenneth Holmes
75 Rowland Way, First Floor
Novato, CA 94945

Chief Financial Officer

William E. Horwich
1111 Broadway, 24th Floor
Oakland, CA 94607

Assistant Secretary

EXHIBIT 2

MVX.COM Communications, Inc.'s Cash Flow Statement



M V X . C O M

Cash Burn Forecast

| | Q200 | Q300 | Q400 | Q101 | Q201 | Q301 | Q401 | Q102 |
|--------------------------------|-------------|------------|------------|------------|------------|------------|------------|------------|
| Salaries | 2,110,000 | 2,723,000 | 2,944,000 | 2,988,000 | 3,033,000 | 3,078,000 | 3,124,000 | 3,171,000 |
| Benefits and taxes | 253,000 | 326,000 | 353,000 | 358,000 | 363,000 | 368,000 | 374,000 | 380,000 |
| Commissions and bonuses | 352,000 | 441,000 | 641,000 | 798,000 | 1,210,000 | 1,828,000 | 2,855,000 | 4,098,000 |
| Consulting and temps. | 892,000 | 602,000 | 1,442,000 | 1,464,000 | 1,486,000 | 1,508,000 | 1,531,000 | 1,554,000 |
| Professional Services | 82,000 | 100,000 | 82,000 | 83,000 | 84,000 | 85,000 | 86,000 | 87,000 |
| Recruiting | 183,000 | 70,000 | 43,000 | 44,000 | 45,000 | 46,000 | 47,000 | 48,000 |
| Travel and meals | 88,000 | 107,000 | 110,000 | 112,000 | 114,000 | 116,000 | 118,000 | 120,000 |
| Training and seminars | 44,000 | 53,000 | 54,000 | 55,000 | 56,000 | 57,000 | 58,000 | 59,000 |
| Marketing | 90,000 | 132,000 | 192,000 | 195,000 | 198,000 | 201,000 | 204,000 | 207,000 |
| Rent | 427,000 | 421,000 | 453,000 | 460,000 | 467,000 | 474,000 | 481,000 | 488,000 |
| Other | 43,000 | 36,000 | 50,000 | 51,000 | 52,000 | 53,000 | 54,000 | 55,000 |
| Corporate allocation | 284,000 | 287,000 | 305,000 | 310,000 | 315,000 | 320,000 | 325,000 | 330,000 |
| Capital Lease Payments | 103,000 | 275,000 | 291,000 | 295,000 | 299,000 | 303,000 | 308,000 | 313,000 |
| Capital Expenditures | 200,000 | 8,000 | 218,000 | 221,000 | 224,000 | 227,000 | 230,000 | 233,000 |
| Total Operating Exp. Cash Burn | 5,151,000 | 5,581,000 | 6,978,000 | 7,434,000 | 7,946,000 | 8,664,000 | 9,795,000 | 11,143,000 |
| Cost of Sales | 826,000 | 947,000 | 1,847,000 | 3,561,000 | 5,381,000 | 8,198,000 | 12,560,000 | 19,319,000 |
| Cash Collections | 1,057,000 | 1,224,000 | 2,507,000 | 5,050,000 | 6,391,000 | 10,440,000 | 17,630,000 | 23,382,000 |
| Net Cash Burn | 4,920,000 | 5,304,000 | 6,718,000 | 5,945,000 | 6,936,000 | 6,422,000 | 4,725,000 | 7,080,000 |
| Debt Repayment | (6,500,000) | | | | | | | |
| Sales-Leaseback | 1,014,000 | | | | | | | |
| Financing | | 40,000,000 | | | | | | |
| Projected Cash Balance | 4,503,000 | 39,199,000 | 32,481,000 | 26,736,000 | 19,800,000 | 13,378,000 | 8,653,000 | 1,573,000 |

EXHIBIT 3

Edit to Section 2.6.2(F) of MVX.COM Communications, Inc.'s tariff

SECTION 2.0 - RULES AND REGULATIONS (CONTD.)

2.6 Payment Arrangements (Cont'd.)

2.6.2 Billing and Collection of Charges (Cont'd.)

- (D) Billing of the Customer by the Company will begin on the Service Commencement Date, which is the day on which the Company notifies the Customer that the service or facility is available for use, except that the Service Commencement Date may be postponed by mutual agreement of the parties, or if the service or facility does not conform to standards set forth in this tariff or the Service Order. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued.
- (E) If any portion of the payment is not received by the Company within 30 days of receipt of this bill, or if any portion of the payment is received by the Company in funds which are not immediately available upon presentment, then a late payment charge of 1.5% per month shall be due to the Company. A late payment charge is not applicable to subsequent rebilling of any amount to which a late payment charge has already been applied. Late payment charges are to be applied without discrimination.
- (F) the Customer should notify the Company of any disputed items on an invoice within one hundred eighty (180) days of receipt of the invoice. If the Customer and the Company are unable to resolve the dispute to their mutual satisfaction, the Customer may file a complaint with the South Dakota Public Utilities Commission in accordance with the Commission's rules and procedure. The address of the Company and the Commission is as follows:
- | | |
|------------------------------|----------------------------|
| MVX.COM Communications, Inc. | South Dakota PUC |
| 100 Rowland Way, Suite 145 | State Capitol Building |
| Novato, California 94945 | 500 East Capitol Ave. |
| 800-685-8486 | Pierre, South Dakota 57501 |
| | 800-332-1782 |
- (G) If service is disconnected by the Company (in accordance with Section 2.6.3 following) and later re-installed, re-installation of service will be subject to all applicable installation charges. If service is suspended by the Company (in accordance with Section 2.6.3 following) and later restored, restoration of service will be subject to the rates in Section 8.6.2.

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

EXHIBIT 4

MVX.COM Communications, Inc.'s address and toll free number and Commission's toll free number entered into tariff

SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.6 Payment Arrangements (Cont'd.)

2.6.2 Billing and Collection of Charges (Cont'd.)

- (D) Billing of the Customer by the Company will begin on the Service Commencement Date, which is the day on which the Company notifies the Customer that the service or facility is available for use, except that the Service Commencement Date may be postponed by mutual agreement of the parties, or if the service or facility does not conform to standards set forth in this tariff or the Service Order. Billing accrues through and includes the day that the service, circuit, arrangement or component is discontinued.
- (E) If any portion of the payment is not received by the Company within 30 days of receipt of this bill, or if any portion of the payment is received by the Company in funds which are not immediately available upon presentment, then a late payment charge of 1.5% per month shall be due to the Company. A late payment charge is not applicable to subsequent rebilling of any amount to which a late payment charge has already been applied. Late payment charges are to be applied without discrimination.
- (F) the Customer should notify the Company of any disputed items on an invoice within one hundred eighty (180) days of receipt of the invoice. If the Customer and the Company are unable to resolve the dispute to their mutual satisfaction, the Customer may file a complaint with the South Dakota Public Utilities Commission in accordance with the Commission's rules and procedure. The address of the Company and the Commission is as follows:
- | | |
|------------------------------|----------------------------|
| MVX.COM Communications, Inc. | South Dakota PUC |
| 100 Rowland Way, Suite 145 | State Capitol Building |
| Novato, California 94945 | 500 East Capitol Ave. |
| 800-685-8486 | Pierre, South Dakota 57501 |
| | 800-332-1782 |
- (G) If service is disconnected by the Company (in accordance with Section 2.6.3 following) and later re-installed, re-installation of service will be subject to all applicable installation charges. If service is suspended by the Company (in accordance with Section 2.6.3 following) and later restored, restoration of service will be subject to the rates in Section 8.6.2.

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

EXHIBIT 5

Revised sheets to MVX.COM Communications, Inc.'s tariff omitting sections 2.1.4(A), 2.1.4(B), 2.1.4(C), 2.1.4(D)(8), 2.1.4(D)(11), 2.1.4(F), 2.3.2(A), 2.3.2(B), 2.3.2(C), and 2.7.2(H)

SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.1 Undertaking of the Company, (Cont'd.)

2.1.4 Limitations on Liability

- (A) Except as otherwise stated in this section, the liability of Carrier for damage arising out of either: (1) the furnishing of its services, including but not limited to mistakes, omissions, interruptions, delays, or errors, or other defects, representations, or use of these services, or (2) the failure to furnish its service, whether caused by acts or omission, shall be limited to the extension of allowances to the Customer for interruptions in service as set forth in Section 2.7.
- (B) Except for the extension of allowances to the Customer for interruptions in service in Section 2.7, Carrier shall not be liable to a Customer or third party for any direct, indirect, special, incidental, reliance, consequential, exemplary or punitive damages, including, but not limited to, loss of revenue or profits, for any reason whatsoever, including but not limited to, any act or omission, failure to perform, delay, interruption, failure to provide any service of any failure in or breakdown of facilities associated with the service.
- (C) The liability of Carrier for errors in billing that result in overpayment by the customer shall be limited to a credit equal to the dollar amount erroneously billed, or in the event that payment has been made and service has been discontinued, to a refund of the amount erroneously billed.

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

SECTION 2.0 - RULES AND REGULATIONS (CONTD)

2.1 Undertaking of the Company, (Cont'd.)

2.1.4 Limitations on Liability (Cont'd.)

(D) (cont'd)

- (6) Changes in any of the facilities, operations or procedures of the Company that render any equipment, facilities or services provided by the Customer obsolete, or require modification or alteration of such equipment, facilities or services, or otherwise affect their use or performance, except where reasonable notice is required by the Company and is not provided to the Customer, in which event the Company's liability is limited as set forth in paragraph (A) of this Subsection 2.1.4.
- (7) Defacement of or damage to Customer premises resulting from the furnishing of services or equipment on such premises or the installation or removal thereof;
- (8) Injury to property or injury or death to persons, including claims for payments made under Workers' Compensation law or under any plan for employee disability or death benefits, arising out of, or caused by, any act or omission of the Customer, or the construction, installation, maintenance, presence, use or removal of the Customer's facilities or equipment connected, or to be connected to Carrier's facilities;
- (9) Any noncompletion of calls due to network busy conditions;
- (10) Any calls not actually attempted to be completed during any period that service is unavailable;
- (11) Breach in the privacy or security of communications transmitted over Carrier's facilities;

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

SECTION 2.0 - RULES AND REGULATIONS (CONTD)

2.1 Undertaking of the Company, (Cont'd.)

2.1.4 Limitations on Liability (Cont'd.)

- (E) The Company does not guarantee nor make any warranty with respect to installations provided by its for use in an explosive atmosphere.
- (F) Failure by the Company to assert its rights pursuant to one provision of this tariff does not preclude the Company from asserting its rights under other provisions.
- (G) CARRIER MAKES NO WARRANTIES OT REPRESENTATIONS, EXPRESS OR IMPLIED, EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESDS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

2.1.5 Notification of Service-Affecting Activities

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

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.3 Obligations of the Customer (Cont'd.)

2.3.2 Liability of the Customer

- (A) Carrier shall be indemnified, defended and held harmless by the Customer or end user from and against any and all claims, loss, demands, suits, expense, or other action or any liability whatsoever, including attorney fees, whether suffered, made, instituted, or asserted by the Customer or by any other party, for any personal injury to or death of any person or persons, and for any loss, damage, or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any Carrier or Customer equipment or facilities or service provided by Carrier.
- (B) Carrier does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere. Carrier shall be indemnified, defended and held harmless by the Customer from and against any and all claims, loss, demands, suits, or other action, or any liability whatsoever, including attorney fees, whether suffered, made, instituted or asserted by the Customer or by any other party, for any personal injury to or death of any person or persons, and for any loss, damage, or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any equipment or facilities or the service.
- (C) Notwithstanding any other provision of this tariff and pursuant to S.D. Codified Laws SS 49-13-1 and 49-13-1.1, any person claiming to be damaged by Carrier may either make complaint to the Commission or may bring suit on his own behalf for the recovery of damages in any court of competent jurisdiction in South Dakota, but no person may pursue both remedies at the same time.

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Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

SECTION 2.0 - RULES AND REGULATIONS, (CONTINUED)

2.7 Allowances for Interruptions in Service, (Continued)

2.7.2 Limitations of Allowances

- (E) A service will not be deemed to be interrupted if a Customer continues voluntarily make use of the service. If the service is interrupted, the Customer can get a service credit, use another means of communications provided by the Company (pursuant to Section 2.7.3), or utilize another service provider.
- (F) During any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- (G) That occurs or continues due to the Customer's failure to authorize replacement of any element of special construction.

2.7.3 Use of Another Means of Communications

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

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

EXHIBIT 6

Revised sheet to MVX.COM Communications, Inc.'s tariff in section 2.6.7

SECTION 2.0 - RULES AND REGULATIONS (CONTINUED)

2.6 Payment Arrangements, (Continued)

2.6.6 Changes in Services 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.

2.6.7 Bad Check Charge

A service charge of \$20.00 will be assessed in accordance with South Dakota law for all checks returned by a bank or other financial institution for: Insufficient or uncollected funds, closed account, apparent tampering, missing signature or endorsement, or any other insufficiency or discrepancy necessitating return of the instrument at the discretion of the drawee bank or other financial institution.

2.7 Allowances for Interruptions in Service

2.7.1 General

- (A) A credit allowance will be given when service is interrupted, except as specified in Section 2.7.2 following. 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.

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

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APR 06 2000

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Lance J.M. Steinhart
Attorney At Law
6455 East Johns Crossing
Suite 285
Duluth, Georgia 30097

Also Admitted in New York
and Maryland

Telephone: (770) 232-9200
Facsimile: (770) 232-9208

April 5, 2000

VIA FEDERAL EXPRESS

Mr. William Bullard
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501-5070
(605) 773-3201

Re: MVX.COM Communications, Inc. - TC99-111

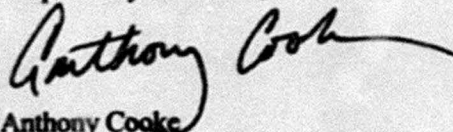
Dear Mr. Bullard:

Enclosed please find one original and ten (10) copies of MVX.COM Communications, Inc.'s Certificate of Authority and Certificate of Good Standing to be filed in MVX.COM Communications, Inc.'s Amended Application for Registration of a Telecommunications Company to Provide Local Exchange Service in TC99-111.

I have enclosed an extra copy of this letter to be date stamped and returned to me in the enclosed self-addressed prepaid envelope.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Anthony Cooke
Director of Government Affairs for
Lance J.M. Steinhart
Attorney for MVX.COM Communications, Inc.

Enclosures

cc: Mr. Edward A. Brinskele (w/enc)

State of South Dakota

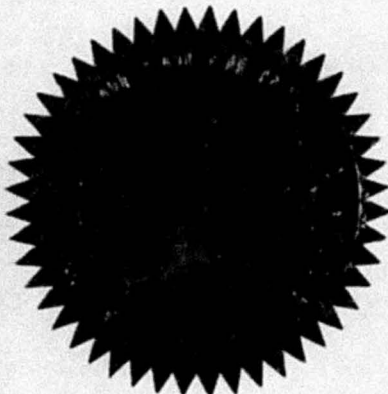


OFFICE OF THE SECRETARY OF STATE

Certificate of Good Standing Foreign Corporation

I, **JOYCE HAZELTINE**, Secretary of State of the State of South Dakota, do hereby certify that **MVX.COM COMMUNICATIONS, INC. (CA)** was authorized to transact business in this state on **March 30, 2000** 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 March 30, 2000.



A handwritten signature in cursive script, reading "Joyce Hazeltine".

Joyce Hazeltine
Secretary of State

RECEIVED

JUL 26 2000

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Lance J.M. Steinhart
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July 24, 2000

VIA FEDERAL EXPRESS

Mr. William Bullard
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501-5070
(605) 773-3201

Re: MVX.COM Communications, Inc. - TC99-111

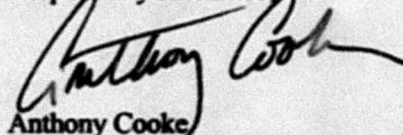
Dear Mr. Bullard:

Enclosed please find one original and ten (10) copies of supplemental information, in response to Staff's request, to be filed in MVX.COM Communications, Inc.'s Amended Application for Registration of a Telecommunications Company to Provide Local Exchange Service in TC99-111.

I have enclosed an extra copy of this letter to be date stamped and returned to me in the enclosed self-addressed prepaid envelope.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,



Anthony Cooke
Director of Government Affairs for
Lance J.M. Steinhart
Attorney for MVX.COM Communications, Inc.

Enclosures

cc: Dick Van Eggelen (w/enc)

MVX.COM Communications, Inc. (MVX.COM)
Docket TC99-111
July 24, 2000

1. Attached hereto are revised Pages 26, 27 and 28 of MVX.COM's proposed local exchange tariff as requested by Staff.
2. MVX.COM will agree to the Commission placing restrictions in the Commission Order granting authority that will prohibit MVX.COM from offering prepaid services and from collecting customer deposits or advance payments.

SECTION 2.0 - RULES AND REGULATIONS (CONT'D)

2.5 Customer Deposits and Advance Payments

2.5.1 Advance Payments

The Company does not accept advance payments.

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

SECTION 2.0 - RULES AND REGULATIONS (CONTD)

25 Customer Deposits and Advance Payments (Cont'd.)

2.5.2 Deposits

The Company does not require customer deposits.

Issued:
Issued by:

Edward A. Brinskele, President
MVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

Effective:

SECTION 20.- RULES AND REGULATIONS (CONTD)

26 Payment Arrangements

26.1 Payment for Services

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

The Customer is responsible for the payment of federal excise taxes, state and local sales and use taxes and similar taxes imposed by governmental jurisdictions, all of which shall be separately designated on the Company's invoices. The Company will not separately charge for the South Dakota gross receipts tax on the Company's invoice for local services. Any taxes imposed by a local jurisdiction (e.g., county and municipal) will only be recovered from those Customers residing in the affected jurisdictions.

Certain telecommunications services, as defined in the South Dakota Revised Code, are subject to state sales tax at the prevailing tax rates, if the services originate, or terminate in South Dakota, or both, and are charged to a subscriber's telephone number or account in South Dakota.

26.2 Billing and Collection of Charges

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

- (A) Non-recurring charges are due and payable within thirty (30) days after the date the invoice is mailed to the Customer by the Company.
- (B) The Company shall present invoices for recurring charges monthly to the Customer, in arrears for the month in which service is provided, and recurring charges shall be due and payable within thirty (30) days after the date the invoice is mailed to the Customer by the Company. When billing is based upon Customer usage, usage charges will be billed monthly for the preceding billing period.
- (C) When service does not begin on the first day of the month, or end of the last day of the month, the charge for the fraction of the month in which service was furnished will be calculated on a pro rata basis. For this purpose, every month is considered to have thirty (30) days.

Issued:
Issued by:

Effective:

Edward A. Brinskele, President
MOVX.COM Communications, Inc.
100 Rowland Way, Suite 145
Novato, CA 94945

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

| | |
|--|-----------------------|
| IN THE MATTER OF THE APPLICATION OF) | ORDER GRANTING |
| MVX.COM COMMUNICATIONS, INC. FOR A) | CERTIFICATE OF |
| CERTIFICATE OF AUTHORITY TO PROVIDE) | AUTHORITY |
| LOCAL EXCHANGE SERVICES IN SOUTH) | |
| DAKOTA) | TC99-111 |

On December 1, 1999, the Public Utilities Commission (Commission) received an application for a certificate of authority from MVX.COM Communications, Inc. (MVX.COM).

MVX.COM proposes to offer all local services provided by the incumbent LECs that are not eligible for a small or rural carrier exemption pursuant to § 251(f)(1) of the federal Act. A proposed tariff was filed by MVX.COM.

On December 2, 1999, the Commission electronically transmitted notice of the filing and the intervention deadline of December 17, 1999, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled August 22, 2000, meeting, the Commission considered MVX.COM'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 MVX.COM not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission. Commission Staff further recommended a waiver of ARSD 20:10:32:03(13).

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-69 and ARSD 20:10:32:03. The Commission finds that MVX.COM has met the legal requirements established for the granting of a certificate of authority. MVX.COM has, in accordance with SDCL 49-31-71, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota. Further, the Commission finds that there is good cause to waive subparagraph (13) of ARSD 20:10:32:03.

The Commission approves MVX.COM's application for a certificate of authority, subject to rural safeguards, and subject to the condition that MVX.COM not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission. The certificate of authority for MVX.COM shall authorize it to offer local exchange services in South Dakota, except in those areas served by a rural telephone company. In the future, should MVX.COM choose to provide local exchange services statewide, with respect to rural telephone companies, MVX.COM 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 MVX.COM's application for a certificate of authority to provide local exchange services is granted, subject to the condition that MVX.COM not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission; and it is

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

FURTHER ORDERED, that the Commission shall authorize MVX.COM to offer its local exchange services in South Dakota, except in those areas served by a rural telephone company; and it is

FURTHER ORDERED, that the Commission finds good cause to waive subparagraph (13) of ARSD 20:10:32:03.

Dated at Pierre, South Dakota, this 25th day of August, 2000.

| |
|---|
| <p align="center">CERTIFICATE OF SERVICE</p> <p>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.</p> <p>By: <u>Helsine Kelbo</u></p> <p>Date: <u>8/29/00</u></p> <p align="center">(OFFICIAL SEAL)</p> |
|---|

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

CERTIFICATE OF AUTHORITY

**To Conduct Business As A Local Exchange Carrier
Within The State Of South Dakota**

Authority was Granted August 22, 2000
Docket No. TC99-111

This is to certify that

MVX.COM COMMUNICATIONS, INC.

is authorized to provide local exchange services in South Dakota.

This certificate is issued in accordance with SDCL 49-31-69 and ARSD 20:10:32:03, 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 25th day of August, 2000.

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION:**




JAMES A. BURG, Chairman


LASKA SCHOENFELDER, Commissioner