



**ORBITCOM** Inc.

*Local - Long Distance Communications*

**RECEIVED**

**MAR 12 2007**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

March 7, 2007

South Dakota Public Utilities Commission  
500 East Capitol  
Pierre, S.D. 57501-5070

Re: Amending pages 21, 31 and 32 of OrbitCom, Inc's  
fka VP Telecom Switched Access Tariff

OrbitCom, Inc., fka VP Telecom Switched Access Tariff was approved in TC02-107, and would now like to come before the Commission and request a revision to page 21 of OrbitCom, Inc's Switched Access Tariff section 3.4 and pages 31-32 in section 4.8.

Enclosed, please find 10 copies of the amended pages 21 and 31-32 of OrbitCom, Inc's Switched Access Tariff.

Sincerely,

Brad VanLeur  
President

BV/mm

Enclosures

## Switched Access Services

**Section 3 – Obligations Of The Customer (Continued)****3.3 Claims**

With respect to any Service or facility provided by the Company, 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:

- 3.3.1** any loss, destruction or damage to property of the Company or any third party, or the death or injury to persons, including, but not limited to, employees or invitees of either party, to the extent caused by or resulting from the negligent or intentional act or omission of the Customer or User or their employees, agents, representatives or invitees;
- 3.3.2** any claim, loss, damage, expense or liability for infringement of any copyright, patent, trade secret, or any proprietary or intellectual property right of any third party, arising from any act or omission by the Customer or User, including without limitation, use of the Company's Services and facilities in a manner not contemplated by the agreement between Customer and the Company; or
- 3.3.3** any claim of any nature whatsoever brought by a User with respect to any matter for which the Company would not be directly liable to the Customer under the terms of the applicable Company Tariff.

**3.4 Jurisdictional Reporting**

When the Company receives sufficient call detail to determine the jurisdiction of some or all originating and terminating access minutes of use (MOU), the Company will use that call detail to render bills for those MOU and will not use PIU factors. When the Company receives insufficient call detail to determine the jurisdiction of some or all originating and terminating access MOU, the Company will apply PIU factor(s) provided by the Customer or developed by the company to those minutes for which the Company does not have sufficient call detail. PIU factor(s) must be provided in whole numbers and will be used by the Company to apportion use and/or charges between interstate and intrastate jurisdictions until Customer provides an update to its' PIU factor(s).

Issued: \_\_\_\_\_

Effective: \_\_\_\_\_

Issued By:

Brad VanLeur, President  
OrbitCom, Inc.  
1701 N. Louise Ave.  
Sioux Falls, SD 57107  
605-977-6900

## Switched Access Services

**Section 4 – Payment Arrangements (Continued)****4.7 Taxes**

The Customer is responsible for the payment of Federal excise taxes, gross receipts, access, state and local sales and use taxes and all taxes, fees, surcharges (however, designated) and other exactions imposed on the Company or its Services by governmental jurisdictions, other than taxes, imposed generally on corporations. Any taxes imposed by a local jurisdiction (e.g. county and municipal taxes) will only be recovered from those Customers residing in the affected jurisdictions. All such taxes, fees and charges shall be separately designated on the Company's invoices, and are not included in the Tariffed rates. It should be the responsibility of the Customer to pay any such taxes that subsequently become applicable retroactively.

**4.8 Disputed Bills**

The Customer may dispute a bill only by written notice to the Company. Written dispute must be received by the company within 60 days of the payment due date. If a written dispute is not received by the Company within 60 days of the payment date, the bill statement shall be deemed to be correct and considered due and payable in full by Customer.

The Company, upon receiving a written dispute will investigate the merits of the dispute. Upon completion of its investigation, the Company will provide written notice to the customer regarding the disposition of the claim, i.e., resolved in favor of the Customer or resolved in favor of the Company. The Company will resolve the dispute and assess credits or penalties to the customer as follows:

- If the dispute is resolved in favor of the Company and the customer has paid the disputed amount on or before the payment due date, no credits or penalties will apply.
- If the dispute is resolved in favor of the Company and the customer has withheld the disputed amount, any payments withheld pending settlement of the dispute shall be subject to the late payment penalty as set forth in 4.2.6. preceding.
- If the dispute is resolved in favor of the customer and the customer has withheld the disputed amount, no credits or penalties will apply.

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## Switched Access Services

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**Section 4 – Payment Arrangements (Continued)****4.8 Disputed Bills (Continued)**

• If the dispute is resolved in favor of the customer and the customer has paid the disputed amount, the customer will receive an interest credit from the Company for the disputed amount times a late factor. The late factor shall be the lesser of:

- the highest interest rate which may be levied by law for commercial transactions, compounded daily, or
- 0.000292 per day, compounded daily for the applicable number of days

**Section 5 – Use of Customer's Service By Others****5.1 Resale and Sharing**

Any Service provided under the Company Tariffs may be resold to or shared with other persons at the option of Customer, except as provided in 5.3 following. Customer remains solely responsible for all use of Services ordered by it or billed to its telephone number(s) pursuant to the Tariffs of the Company, for determining who is authorized to use its Services, and for notifying the Company of any use. Business rates apply to all Service that is resold or shared

**5.2 Joint Use Arrangements**

Joint Use Arrangements will be permitted for all Services available for resale and sharing pursuant to the Company Tariffs. 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. VP Telecom 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.

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