

2. GENERAL REGULATIONS

2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.10 Determination of Charges for Mixed Intrastate and Interstate Usage

Usage Sensitive Rate Elements - When the Customer's usage has mixed intrastate and interstate traffic, for that portion of the usage for which the Company is unable to determine the appropriate jurisdiction, the usage charges will be prorated between the intrastate and interstate. The jurisdictional percentages or default procedure set forth in 2.3.9. preceding, will serve as the basis for prorating the charges.

Monthly and Nonrecurring Chargeable Rate Elements - When the jurisdiction of the rate element can be determined by the Company the charges applicable to the appropriate jurisdiction will be applied. Rate elements for which the Company cannot determine the appropriate jurisdiction will be prorated between intrastate and interstate. The jurisdictional percentages or default procedure set forth in 2.3.9. preceding, will serve as the basis for prorating the charges.

Identification and Rating of VoIP-PSTN Traffic

A. Scope

This section only applies to VoIP-PSTN traffic exchanged between the Company and the customer in time division multiplexing (TDM) format that originates and/or terminates in Internet protocol (IP) format. VoIP-PSTN traffic originates and/or terminates in IP format if it originates from and/or terminates to an end-user customer of a service that requires Internet protocol-compatible customer premises equipment. (1)

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- (1) Although the Company has taken the position that this tariff, by its own terms, already applies to VoIP-PSTN traffic, as defined herein, the Company has included this section in the tariff out of an abundance of caution to prevent any claim that it does not so apply, and to implement the decision by the Federal Communications Commission in its Report and Order in WC Docket Nos. 10-90, etc., FCC Release No. 11-161 (Nov. 18, 2011) ("FCC Order") that VoIP-PSTN access traffic should be exchanged at interstate access rates (unless the parties have agreed otherwise). By its terms, the FCC Order is prospective only and does not address preexisting law with regard to the applicability of intercarrier compensation or the enhanced service providers ("ESP") exemption to VoIP-PSTN Traffic. Including this section in the tariff in no way alters or otherwise affects the applicability of this tariff to VoIP-PSTN Traffic before the effective date of the FCC Order.

2. GENERAL REGULATIONS

2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.10 Determination of Charges for Mixed Intrastate and Interstate Usage (cont'd)

Identification and Rating of VoIP-PSTN Traffic (cont'd)

A. Scope (Cont'd)

1. This section governs the identification of originating and terminating intrastate toll VoIP-PSTN traffic and facilities to which interstate switched access rates apply (unless the parties have agreed otherwise) in accordance with the transitional Intercarrier Compensation framework for VoIP-PSTN traffic adopted by the Federal Communications Commission in its Report and Order, FCC Release No. 11-161 (Nov. 18, 2011) (FCC Order). Specifically, this section establishes the method that will be used to identify the percentage of the customer's intrastate access traffic, that will be treated as intrastate toll VoIP-PSTN traffic (referred to in this tariff as "Relevant VoIP-PSTN Traffic"),
2. This section applies to originating and terminating intrastate switched access minutes of use ("MOU") and facility rate elements of all Access customers.
3. The customer shall not modify its reported PIU factor to account for the VoIP-PSTN Traffic for MOU and facility rate elements.

B. Rating of VoIP-PSTN Traffic

The Relevant VoIP-PSTN Traffic terminating from the customer to the Company and facility rate elements identified in accordance with this tariff section will be billed at rates equal to the Company's applicable tariffed terminating interstate switched access rates as specified at <http://serviceguide.att.com/ABS/ext/TariffDetails.cfm>, in the AT&T Communications FCC Tariff No. 28, Sections 17.13.3-17.15.1 unless the corresponding intrastate rate is lower. If the intrastate rate is lower then that rate will be used for billing. Hereafter, these billed rates will be referred to in this tariff as the relevant "VoIP Rates". Relevant VoIP-PSTN Traffic originating from the Company or another provider to the customer will be rated using intrastate rates and rate structure.

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ACCESS SERVICES AND NETWORK INTERCONNECTION SERVICES

STATE OF SOUTH DAKOTA

SECTION 2

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ISSUED: JULY 3, 2012

EFFECTIVE: AUGUST 2, 2012

2. GENERAL REGULATIONS

2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.10 Determination of Charges for Mixed Intrastate and Interstate Usage (cont'd)

Identification and Rating of VoIP-PSTN Traffic (cont'd)

C. Calculation and Application of Percent-VoIP-Usage Factors

The Company will determine the number of Relevant VoIP-PSTN Traffic terminating MOU and facility rate elements to which VOIP rates will be applied under subsection (B), above, by applying the Percent VoIP Usage ("PVU") factor to the intrastate access terminating MOU exchanged and facilities between the Company and the customer. The PVU factors will be derived and applied as follows:

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(T)

1. The customer, will calculate and furnish to the Company a factor (the "PVUC") on an ACNA basis which would aggregate traffic from Carrier Identification Code(s) ("CIC") or Operating Company Numbers ("OCNs") associated with the ACNA. This PVUC represents the percentage (whole number) of the total terminating intrastate access MOU that the customer exchanges with the Company end users in the State that is sent to the Company that originated in IP format at the end user. This PVUC shall be based on information such as the number of the customer's retail VoIP subscriptions in the state (e.g., as reported on FCC Form 477), traffic studies, actual call detail, or other relevant and verifiable information satisfactory to the Company.

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2. The Company will calculate and periodically update a factor (the "PVUT") representing the percentage (whole number) of the total intrastate access MOU that the Company exchanges with the customer end users in the State, that is received from the Customer and terminated in IP format at the end user. This PVUT shall be based on information such as the number of the customer's retail VoIP subscriptions in the state (e.g., as reported on FCC Form 477), traffic studies, actual call detail, or other relevant and verifiable information.

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3. The Company will develop a Customer Percent VoIP Usage ("PVU") factors combining the Customer's PVUC factor with the Company's PVUT factor.

AT&T COMMUNICATIONS OF THE MIDWEST, INC.

ACCESS SERVICES AND NETWORK INTERCONNECTION SERVICES

STATE OF SOUTH DAKOTA

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2. GENERAL REGULATIONS

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2.3.10 Determination of Charges for Mixed Intrastate and Interstate Usage (cont'd)

Identification and Rating of VoIP-PSTN Traffic (cont'd)

C. Calculation and Application of Percent-VoIP-Usage Factors

3. (Cont'd)

- (a) The PVU calculation below is applied when the Company does not bill based on actual call detail records for the intrastate Company's IP traffic at VOIP rates. (T)

$PVU = PVUC + [PVUT \times (1 - PVUC)]$  is applied to the Company's end user's total intrastate MOU and facility rate elements (T)

Example: The customer reported that their PVUC as 40%. The Company's PVUT is 10%. This results in the following:

$$PVU = 40\% \text{ plus } (10\% \text{ times } (1 - 40\%)) = 46\%$$

This means that 46% of the terminating Intrastate MOU exchanged between the customer and the Company's end users will be rated at VOIP rates. (T)

2. GENERAL REGULATIONS

2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.10 Determination of Charges for Mixed Intrastate and Interstate Usage (cont'd)

Identification and Rating of VoIP-PSTN Traffic (cont'd)

C. Calculation and Application of Percent-VoIP-Usage Factors

3. (Cont'd)

- (b) The PVU calculation below is applied when the Company bills are based on the actual call detail records for the intrastate Company's IP traffic at VOIP rates. (T)

The formula for usage will be as follows:

$PVU = PVUC \times (1 - PVUT)$  applied to the Company's TDM end user's total terminating intrastate MOU. (T)

$PVU = PVUC + [PVUT \times (1 - PVUC)]$  is applied to the facility rate elements

Example: The Company has identified that there was 10,500 Intrastate MOU that were identified exchanged between the Customer and the Company's IP end users. The Customer reported that their PVUC as 40%. The Company's PVUT is 10%. This results in the following:

$$PVU = 40\% \text{ times } (1 - 10\%) = 36\%$$

This means that 36% of the terminating Intrastate MOU exchanged between the Customer and the Company's TDM end users will be rated at VOIP rates and the intrastate 10,500 MOU will also be rated at Interstate rates. (T)

For the facility rate elements the formula that is applied to the intrastate dedicated facilities is as follows:

$$PVU = 40\% \text{ plus } (10\% \text{ times } (1 - 40\%)) = 46\%$$

Therefore 46% of the intrastate facilities will be rated at VOIP rates. (T)

2. GENERAL REGULATIONS

2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.10 Determination of Charges for Mixed Intrastate and Interstate Usage (cont'd)

Identification and Rating of VoIP-PSTN Traffic (cont'd)

C. Calculation and Application of Percent-VoIP-Usage Factors

4. If the customer does not furnish the Company with a PVUC pursuant to the preceding paragraph (C) (1), the Company will utilize a customer PVUC of 0%.

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D. PVU Factor Updates

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The customer must update the PVUC factor quarterly using the method set forth in subsection (C) (1) through (4), above. The customer shall forward to the Company, no later than September 15, 2012, this new PVUC factor

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Prospectively, the customer may update the PVUC factor quarterly using the method set forth in subsection (C) (1) through (4). If the customer chooses to submit such updates, it shall forward to the Company, no later than 15 days after the first day of January, April, July and/or October of each year, a revised PVUC factor based on data for the prior three months, ending the last day of December, March, June and September, respectively. The Company will use the revised PVUC to calculate a revised PVU. The revised PVU factor will only apply prospectively and serve as the basis for billing until superseded by a new PVU.

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E. PVU Factor Verification

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Not more than twice in any year, the Company may ask the Customer to verify the PVUC factor furnished to the Company. The customer shall comply, and shall reasonably provide the records and other information used to determine their PVUC as specified in section (C) (1) and (4) above. The customer shall retain and maintain (for verification purposes) the records and other information used to determine the PVUC, for at least 12 months after the PVUC is filed (or longer if any other section of the Company's tariffs or applicable law requires a longer period). The verification process shall be conducted consistent with the provisions in Section 2.3.10 of AT&T's FCC Tariff No. 28.

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2. GENERAL REGULATIONS

2.3 OBLIGATIONS OF THE CUSTOMER (Cont'd)

2.3.10 Determination of Charges for Mixed Intrastate and Interstate Usage (cont'd)

Identification and Rating of VoIP-PSTN Traffic (cont'd)

F. Verification Process

The Company will review these Customer provided PVUC records referenced in (E) above. If the review results represent what the Company considers to be a substantial deviation from the customer's previously reported PVUC or if the PVUC appears unreasonable as compared to other related types of data, the Company will contact the customer within 30 days. This deviation issue will be dealt with in one of the following ways. The current PVUC will continue to be utilized until resolution from either of the 2 methods below.

1. The Company and the customer will come to an agreement as to an appropriate PVUC within 30 days of the provision of the PVUC records.
2. The Company within 45 days of the receipt of these records will make these customer PVUC records available to an independent auditor for review for the purpose of determining a PVUC. If these PVUC records are not available or these records are not substantive enough for the auditor to calculate a PVUC, then a PVUC factor of zero will be assigned. This zero PVUC will be utilized until either a PVUC can be agreed upon between the Company and the customer or an audit can be completed utilizing records acceptable for an audit conclusion. When an audit has been completed employing the records acceptable for an audit conclusion, the PVUC resulting from the audit report will be employed until the next customer provided PVUC is available as referenced in the (E) or (F) procedures above.