

LOCAL COMMUNICATIONS SERVICES

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*This tariff, West Virginia Tariff No. 1, issued by Windstream New Edge, LLC  
replaces in its entirety,  
WV P.S.C. Tariff No 1, issued by EarthLink Business, LLC.*

Tariff Schedule Governing  
The Provision of  
Local Communications Services  
Furnished by  
**Windstream New Edge, LLC**  
Within the  
State of West Virginia

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Issued by authority of an Order of the Public Service Commission of West Virginia in Case No. \_\_\_\_\_, dated  
\_\_\_\_\_

Issued: December 20, 2022

Effective: January 19, 2023

By: Senior Regulatory Counsel  
4001 Rodney Parham Rd.  
Little Rock, Arkansas 72212

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**CHECK SHEET**

Pages of this tariff, as indicated below, are effective as of the date shown at the bottom of the respective pages. Original and revised pages, as named below, comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this page.

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**EXPLANATION OF SYMBOLS**

- C - Change in Text or Regulation but no Change in Rate or Charge.
- D - Change resulting in a Decrease in Rate
- I - Change resulting in an Increase in Rate
- M - Moved from another Tariff Location with no change in text, rates, rules, or conditions
- N - New
- O - Omission (Deletions)
- T - Temporary Rate and/or Surcharge

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**CONCURRING CARRIERS**

None.

**CONNECTING CARRIERS**

None.

**OTHER PARTICIPATING CARRIERS**

None.

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**APPLICATION OF TARIFF**

This tariff sets forth rules applicable to the provision of interstate high speed digital access and high capacity private line Services using a variety of digital transmission technologies.

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**SECTION 1 - DEFINITIONS**

Advance Payment: Part or all of a payment required before the start of Service.

Commission: West Virginia Public Service Commission

Company: Windstream New Edge, LLC, the issuer of this tariff.

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

Dedicated: A facility or equipment system or subsystem set aside for the sole use of a specific Customer or End User.

DSL: Digital Subscriber Line.

End Office: The switching system office or serving wire center where loops are terminated for purposes of interconnection to each other and/or to trunks.

End User: A person, firm or corporation who is designated by the Customer as a user of Company's Service furnished to the Customer. The End User must be specifically identified in the Application for Service.

End User Premises Equipment: Equipment provided by the Customer, the End User, or any party other than the Company that is located on the End User's premises and is connected to the Company's network.

FCC: Federal Communications Commission.

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**SECTION 1 – DEFINITIONS (CONT'D.)**

**Individual Case Basis:** A service arrangement in which the regulations, rates and charges are developed based on the specific circumstances of the Customer and at the Company's sole discretion.

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

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

**Origination Point:** The point of demarcation between the Company's facilities and those of the End User.

**Premises:** The space occupied by a Customer or End User in a building or buildings or contiguous property.

**Recurring Charges:** The monthly charges to the Customer for Services, facilities and equipment, which continues for the agreed-upon duration of the Service.

**Services:** The services, or combination thereof, offered by the Company and contained in this Tariff.

**Service Order:** The request for Company Services submitted by the Customer in the format devised by the Company. The submission of a Service Order by the Customer and confirmation thereof by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff.

**Special Facilities:** Any facilities, goods, supplies, products, equipment, fixtures or other installation specifically installed or constructed for Customer by Company pursuant to a negotiated agreement between Company and Customer.

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**SECTION 1 – DEFINITIONS (CONT'D.)**

**Term Agreement:** An agreement between the Company and a Customer for the delivery of Services for a stated minimum duration.

**Termination Point:** The demarcation point between Company's facilities and the Customer's facilities.

**Transmission Speed:** Transmission speed or rate, in bits per second (bps), as agreed to by Company and Customer.

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**SECTION 2. RULES AND REGULATIONS**

2.1 Undertaking of the Company

The Company undertakes to furnish Services in accordance with the terms and conditions set forth in this tariff.

2.2 Terms and Conditions

The Company shall have no responsibility with respect to billings, charges, or disputes related to Services used by the Customer which are not included in the Services herein including, without limitation, any local, regional or long distance services not offered by the Company. The Customer shall be fully responsible for the payment of any bills for such services and for the resolution of any disputed or discrepancies with the appropriate service provider.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.3 Application for Service

Customers desiring to obtain Service must submit Service Orders in the form and format specified by Company.

2.3.1 Cancellation of Application for Service

If a Customer cancels a Service Order after Company has commenced installation of Service, a cancellation charge may apply.

2.3.2 Cancellation of Service

Subject to cancellation charges referenced herein, the Customer may have Service discontinued upon thirty (30) days' written notice to the Company. The Company shall hold the Customer responsible for payment of all bills for Service furnished until the effective cancellation of Service. As specified in 2.10.2 below, a termination charge may apply to early cancellation of a Term Agreement.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.4 Assignment or Transfer

All Service provided under this tariff is directly or indirectly controlled by the Company and the Customer may not transfer or assign the use of Service (except in the case of a merger or sale of substantially all the assets of Customer) without the express prior written consent of the Company, and then only when such transfer or assignment can be accomplished without interruption of the use or change in the location of Service. All terms and conditions contained in this tariff shall apply to any and all such transferees or assignees. The Customer shall, unless otherwise expressly agreed by the Company in writing, remain liable for the payment of all charges due under this tariff or any applicable agreements.

2.5 Contracts

The Company may also offer intrastate exchange access services on a non-tariffed, contractual basis. The terms and conditions of this tariff do not apply to such contractual services, except to the extent expressly incorporated into a contract. The Company will file all such contracts with the West Virginia Commission, pursuant to Commission rules.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.6 Deposits

- 2.6.1 The Company may, in order to safeguard its interests, require any Customer to make a deposit prior to or at any time after Service is provided to the Customer, to be held by the Company as a guarantee of the payment of rates and charges.
- 2.6.2 A deposit may not exceed: (i) the actual or estimated rates and charges, including non-recurring charges, for the Service for a two month period; or (ii) the charges that would apply for the minimum period for a Service which has a minimum term of more than one month, plus any applicable termination charge. The fact that a deposit has been made in no way relieves the customer from complying with the Company's requirement as to the prompt payment of bills.
- 2.6.3 At such time as the provision of the Service to the Customer is terminated, the amount of the deposit will be credited to the Customer's account and any credit balance which may remain will be refunded.
- 2.6.4 In case of a cash deposit, for the period the deposit is held by the Company, simple annual interest will be applied to the deposit for the number of days from the date the Customer deposit is received by the Company to and including the date such deposit is credited to the Customer's account or the date the deposit is refunded by the Company.
- 2.6.5 If at any time the amount of a deposit is less than required to meet the requirements specified above, the Customer shall be required to pay an additional deposit upon request.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.7 Notices

Any notice Company may give to a Customer shall be deemed properly given when delivered, if delivered in person, or when sent via facsimile, electronic mail or when deposited with the U.S. Postal Service or other express delivery service.

2.8 Payment and Rendering of Bills

2.8.1 The Company shall bill all charges incurred by and credits due to the Customer. The Customer may choose to receive bills in either paper or electronic format. Such bills are due within thirty (30) days after the date of issuance thereof, regardless of the media utilized. The Company shall bill in advance charges for all Services to be provided during the ensuing billing period except for charges associated with Service usage. Adjustments for the quantities of Service established or discontinued in any billing period beyond the minimum period will be prorated to the number of days based on a 30 day month. The Company will, upon request and if available, furnish such detailed information as may reasonably be required for verification of the bill.

2.8.2 The Company shall bill for all Services rendered within 90 days of when those Services are provided.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.8 Payment and Rendering of Bills (Cont'd.)

2.8.3 All bills for Service provided to the customer by the Company are due thirty (30) days from the date of issuance of the bill. If any portion of the payment is received by the Company after the payment due date as set forth above, or if any portion of the payment is received by the Company in funds which are not immediately available to the Company, then a late payment penalty shall be due the Company. The late payment penalty shall be a portion of the payment not received by the payment due date times a late factor. The late factor shall be 1.5% per month (0.049315% per day) or 18% annually, or the highest rate allowed by law, whichever is the lesser. The late factor will be applied for the number of days from the payment due date to and including the date that the Customer makes the late payment funds immediately available to the Company.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.9 Disputed Bills

In the event that a billing dispute occurs concerning any charges billed to the Customer by the Company, the Customer must pay the undisputed portion of the invoice in full and submit a documented claim for the disputed amount. The Customer shall submit all documentation as may reasonably be required to support the claim. All claims must be submitted to the Company within 60 days of receipt of billing for those Services. If the Customer does not submit a claim as stated above, the Customer waives all rights to filing a claim thereafter. Unless disputed, the invoice shall be deemed to be correct and payable in full by Customer. If the Customer is unable to resolve any dispute with the Company, then Customer may file a complaint with this Commission.

If the dispute is resolved in favor of the Customer and the Customer has withheld the disputed amount, no interest or penalties will apply.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.10 Discontinuance and Restoration of Service

2.10.1 Cancellation by the Company

- A. For Nonpayment: The Company may, upon ten (10) days written notice to the Customer, discontinue Service or cancel an application for Service without incurring any liability when there is an unpaid balance for Service that is overdue.
- B. For Returned Checks: A Customer whose check or draft is returned unpaid for any reason shall be subject to discontinuance of Service in the same manner as provided for nonpayment of overdue charges.
- C. For any violation of law or rules: A Customer shall be subject to discontinuance of Service, without notice, for any violation of any law, rule, regulation or policy of any government authority having jurisdiction over Service, or by reason of any order or decision of a court or other government authority having jurisdiction which prohibits the Company from furnishing such Service.
- D. For the Company to comply with any order or request of any governmental authority having jurisdiction: The Customer shall be subject to discontinuance of Service, without notice, for the Company to comply with any order or request of any governmental authority having jurisdiction.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.10 Discontinuance and Restoration of Service (Cont'd.)

2.10.1 Cancellation by the Company (Cont'd.)

- E. For Other Causes: A Customer shall be subject to discontinuance of Service, without notice, in the event of suspected fraud or other unlawful use of the Service, or fraud or misrepresentation in any submission of information required in a Service Order or any other information submitted to Company.
- F. For any Customer filing of bankruptcy or reorganization or failing to discharge an involuntary petition therefore within the time permitted by law: The Company may immediately discontinue or suspend Service under this tariff without incurring any liability.

2.10.2 Cancellation of Term Agreement

Upon the cancellation of Service provided under a Term Agreement, an early termination charge may apply.

2.10.3 Resumption of Service

If Service has been discontinued for nonpayment or as otherwise provided herein and the Customer wishes it continued, Service shall, at the Company's discretion, be restored when all past due amounts are paid or the event giving rise to the discontinuance (if other than nonpayment) is corrected to the satisfaction of Company in Company's sole and absolute discretion and Customer pays a deposit at Company's discretion. All applicable nonrecurring charges shall apply when Services are restored.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

## 2.11 Information to be Provided to the Public

The Company will use reasonable efforts to advise Customers who may be affected of new, revised or optional rates applicable to their Service.

## 2.12 Toll Presubscription

## 2.12.1 General

Toll presubscription is a procedure whereby an end user may select and designate a toll provider to access toll calls without dialing an access code. The end user may designate a toll provider for intraLATA toll, a different carrier for interLATA toll, or the same provider for both. Each provider will have one or more access codes assigned to it for various types of service. When an end user selects a provider as its preferred toll carrier for a telephone line, only one access code of that provider may be incorporated into the switching system of the telephone company permitting access to that provider from that telephone line by the end user without dialing an access code. If the end user wishes to use other code-dependent services of the same provider, it will be necessary for the end user to dial the necessary access code(s) to reach that provider's other service(s). A toll provider must use Feature Group D (FGD) switched access service to qualify as a toll provider. All toll providers must submit a Letter of Intent (LOI) to the telephone company at least forty-five days prior to the date on which the provider proposes to begin participating in toll presubscription. Selection of a toll provider by an end user is subject to the terms and conditions in 2.12.2 following.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

## 2.12 Toll Presubscription

## 2.12.2 Presubscription Change Application

New end users will be asked to select a primary provider when they place an order for telephone company exchange service. If a customer cannot decide on a toll carrier at that time, the customer will have thirty calendar days following completion of the service request to make a PIC choice without charge. In the interim, the customer will be assigned a "No-PIC" and will have to dial an access code to make toll calls. The free selection period available to new end users is the period within thirty days of installation of the new service. Initial free selection available to new end users are:

- A. Designating a toll provider as their primary carrier, thereby requiring no access code to access that toll provider's service. Other providers are accessed by dialing 101-XXXX or other required codes.
- B. Choosing no provider as a primary provider, thus requiring 101-XXXX code dialing to access all providers. This choice can be made by directly contacting the telephone company.

After expiration of the initial free presubscription choice period for new customers the end user may be assessed a toll presubscription charge.

If a toll provider elects to discontinue FGD service after implementation of the toll presubscription option, the toll provider is obligated to contact, in writing, all end users who have selected the canceling toll provider as their preferred toll provider. The toll provider must inform the end users that it is canceling its FGD service, request that the end user select a new toll provider and state that the canceling toll provider will pay the PIC change charge. The toll provider must provide written notification to the telephone company that this activity has taken place.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

## 2.13 Credit Allowance for Interruptions

A credit allowance will be given on a per line basis for service interruptions, defined as any period during which any line subscribed to by the Customer hereunder and/or, if applicable, Company-provided equipment attached thereto is out of service, except as specified below. Out of service conditions are defined as complete loss of data transmission capability. Credit allowances, if any, shall be deducted from the charges payable by the Customer hereunder and shall be expressly indicated on the next bill to the Customer. An interruption period begins the earlier of when the Customer reports a malfunction in Service to the Company or Company becomes independently aware of such malfunction. A malfunction period ends when the affected line and/or associated equipment is fully operative.

## 2.13.1 Credit allowances do not apply to interruptions:

- A caused by the Customer, any End User or any third party;
- B due to failure of power or equipment provided by the Customer or others;
- C during any period in which the Company is not given access to the Premises;
- D due to scheduled maintenance and repair; or
- E due to Acts of God or other events listed in section 2.19(C) below.

## 2.13.2 Interruption of Twenty-Four (24) Hour or Less - Portion of Daily Per-Line Charge

<u>Length of Service Interruption</u>	<u>Credit</u>
Less than 4 hours	None
4 hours up to but not including 8 hours	1/3 of day
8 hours up to but not including 12 hours	1/2 of day
12 hours up to but not including 16 hours	2/3 of day
16 hours up to 24 hours	one day

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.13 Credit Allowance for Interruptions (Cont'd.)

2.13.2 (Cont'd.)

Two or more Service interruptions of the same type to the same line/equipment of two (2) hours or more during any one twenty-four (24) hour period shall be considered as one interruption. In no event shall such interruption credits for any one line/equipment exceed one (1) day's fixed recurring charges for such line/equipment in any twenty-four (24) hour period.

2.13.3 Interruptions over Twenty-Four (24) Hours

Service interruptions over twenty-four (24) hours will be credited four (4) hours for each four (4) hour period or fraction thereof. No more than one (1) full day's credit will be allowed for any period of twenty-four hours.

2.14 Service Connections

2.14.1 All Service along the facilities between the point identified as the Company's origination point and the point identified as the Company's termination point will be furnished by the Company, its agents or contractors.

2.14.2 Customer shall allow Company continuous access and right-of-way to both Customer and End User Premises to the extent reasonably determined by the Company to be appropriate to the provision and maintenance of Services, equipment, facilities and systems relating to this tariff.

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LOCAL COMMUNICATIONS SERVICES

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.14 Service Connections (Cont'd.)

- 2.14.3 The Company may undertake to use reasonable efforts to make available Services to a Customer on or before a particular date, subject to the provisions of and compliance by the Customer with the regulations contained in this tariff. The Company does not guarantee availability by any such date and shall not be liable for any delays in commencing Service to any Customer.
  
- 2.14.4 The Company undertakes to use reasonable efforts to maintain only the facilities and equipment that it furnishes to the Customer or End User. Neither the Customer or the End User may, nor permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.
  
- 2.14.5 Title to all facilities (except such equipment and/or facilities as are sold to or independently provided by a Customer or End User), including terminal equipment, shall remain with the Company. The operating personnel and the electric power consumed by such equipment on the Premises of Customer or End User shall be provided by and maintained at the expense of the Customer.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.14 Service Connections (Cont'd.)

2.14.6 Equipment the Company provides or installs at the Customer's or End User's Premises for use in connection with the Services shall not be used for any purpose other than that for which the Company provided it.

2.14.7 The Company shall not be responsible for the operation or maintenance of any Customer or End User provided communications equipment. The Company may install certain Customer or End User provided communications equipment upon installation of Service; unless otherwise agreed by the Company in writing, Company shall not thereafter be responsible for the operation or maintenance of such 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:

- A The proper origination of signals by Customer provided equipment or for the quality, or defects in, such signals; or
- B The reception of signals by Customer provided equipment.

2.14.8 The Customer shall be responsible for the payment of service charges for visits by the Company's agents or employees to the Premises when the Service difficulty or trouble report results from the improper or inappropriate use of equipment or facilities by the Customer or End User.



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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

## 2.14 Service Connections (Cont'd.)

2.14.9 In the event Company places Company equipment on Customers' premises for the purpose of furnishing service under this agreement, unless otherwise stipulated, Company is solely responsible for operating and maintaining such equipment. In the event that Customer attempts to operate or maintain any such equipment without first obtaining Company's written approval, in addition to any other remedies of Company for a breach by Customer of Customer's obligations hereunder, Customer shall pay Company for any damage to Company's equipment caused or related to such unauthorized operation or maintenance of Company's equipment upon receipt by Customer of a Company invoice therefor. In no event shall Company be liable to Customer, End User or any other person for interruption of the Service or for any other loss, cost or damage caused or related to Customer's improper or inappropriate use of Company-provided equipment.

2.14.10 Customer agrees to allow Company to remove all Company-provided equipment from Customer or End User's premises:

- A upon termination, interruption or suspension of the Service in connection with which the equipment was used; and
- B for repair, replacement or otherwise as Company may determine is necessary or desirable.

2.14.11 At the time of such removal, such equipment shall be in the same condition as when delivered to Customer or installed in Customer or End User's premises, normal wear and tear only excepted. Customer shall reimburse Company for the unamortized cost of any such equipment in the event the foregoing conditions are not met.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

## 2.14 Service Connections (Cont'd.)

2.14.12 The Customer or End User is responsible for ensuring that Customer- or End User-provided equipment connected to Company equipment and facilities is compatible with such Company equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company provided equipment and wiring or injury to the Company's employees or to other persons. Customer will submit to Company a complete manufacturer's specification sheet for each item of equipment that is not provided by the Company and which shall be attached to the Company's facilities. The Company shall approve the use of such item(s) of equipment unless such item is technically incompatible with Company's facilities. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense.

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

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.15 Limitation of Service Equipment or Facilities

- 2.15.1 Service is offered subject to the provisions of this tariff and the availability of the necessary facilities and/or equipment, and is limited to the ongoing availability and capacity of the Customer's facilities as well as the facilities the Company may require from other carriers to furnish Service. The Company may decline Service Orders to or from a location where, in the Company's sole discretion, the necessary facilities or equipment are not available. The Company may discontinue furnishing Service in accordance with the terms of this tariff.
- 2.15.2 The Company reserves the right to discontinue or limit Service when necessitated by conditions beyond its control, or when Service is used in violation of provisions of this tariff or the law.
- 2.15.3 The Company does not undertake to transmit messages, but offers the use of its Service when available, and, as more fully set forth elsewhere in this tariff, shall not be liable for errors in transmission or for failure to establish connections.
- 2.15.4 The Company reserves the right to discontinue Service, limit Service, or to impose requirements as required to meet changing regulatory or statutory rules and standards, or when such rules and standards have an adverse material affect on the business or economic feasibility of providing Service, as determined by the Company in its reasonable judgment.
- 2.15.5 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 RULES AND REGULATIONS (CONT'D.)**

2.16 Prohibited Uses

- 2.16.1 The Services of the Company shall not be used for any unlawful purpose or for any use as to which the Customer has not obtained all governmental approvals, authorizations, licenses, consents and permits, required to be obtained by the Customer with respect thereto.
- 2.16.2 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 offerings complies with relevant laws and the FCC's and the Commission's regulations, policies, orders, and decisions.
- 2.16.3 The Company may, without obtaining any further consent from the Customer, assign any rights, privileges, or obligations under this tariff. The Customer or End User may not assign, transfer in any manner the Service or any rights associated with the Service without the written consent of the Company.
- 2.16.4 The Company may require a Customer to immediately shut down its transmission of signals if Company concludes, in its sole discretion, that such transmission is causing interference to others.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.16 Prohibited Uses (Cont'd.)

2.16.5 The Customer may not use the Services so as to interfere with or impair Service over any facilities and associated equipment, or so as to impair the privacy of any communications over such facilities and associated equipment.

2.16.6 A Customer or End User shall not represent that its services are provided by the Company, or otherwise indicate to its Customers that its provision of Services is jointly with the Company, without the prior written consent of the Company. The relationship between the Company and Customer shall not be that of partners or agents for one or the other, and shall not be deemed to constitute a partnership or agency agreement.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.17 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.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.18 Obligations of the Customer

The Customer (or the End User, as the case may be) shall be responsible for:

2.18.1 The payment of all charges applicable to the Services.

2.18.2 Damage or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer or End User or the non-compliance by the Customer or End User with the provisions of this tariff; or by fire or theft or other casualty on the premises of the Customer or End User unless caused by the negligence or willful misconduct of the employees or agents of the Company;

2.18.3 Providing as specified from time to time by the Company any needed personnel, equipment, space and power to operate Company facilities and equipment installed on the Premises, and providing the level of power, heating and air conditioning necessary to maintain the proper environment on such Premises;

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.18 Obligations of the Customer (Cont'd.)

2.18.4 Obtaining, maintaining, and otherwise having full responsibility for rights of way necessary to install equipment to provide Service to the Customer or End User from the minimum point of entry or the property line of the land on which the structure wherein any termination point or origination point used by the Customer or End User is placed or located, whichever is applicable, through the point of entry into the structure, throughout the structure, to the location of the equipment space. Any and all costs associated with the obtaining and maintaining of the rights of way described herein, including the costs of altering the structure to permit installation of the Company-provided facilities, shall be borne entirely by the Customer. The Company may require the Customer to demonstrate its compliance with this section prior to accepting a Service Order.

2.18.5 Providing a safe place to work and complying with all laws and regulations regarding the working conditions on the Premises. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if, in the Company's opinion, injury to Company employees or property might result from installation or maintenance by the Company.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.18 Obligations of the Customer (Cont'd.)

- 2.18.6 Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of Company facilities and equipment in any Premises or the rights-of-way for which the Customer is responsible, and obtaining permission for Company agents or employees to enter the Premises at any reasonable hour for the purpose of installing, inspecting, repairing, or, upon termination of Service as stated herein, removing the facilities or equipment of the Company;
- 2.18.7 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.
- 2.18.8 Keeping the Company's equipment and facilities located on the Customer's premises or rights-of-way obtained by the Customer free and clear of any liens or encumbrances relating to the Customer's use of the Company's Services or from the locations of such equipment and facilities.
- 2.18.9 Providing, operating and maintaining Customer provided or End User equipment on the Premises. Conformance of Customer provided or End User premises equipment with part 68 of the FCC Rules is the responsibility of the Customer.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.19 Liability of the Company

2.19.1 The Services the Company furnishes are subject to the terms, conditions, and limitations specified in this tariff and to such particular terms, conditions, and limitations as set forth in the special regulations applicable to the particular Services and facilities furnished under this tariff.

2.19.2 The liability of the Company for damages arising out of the furnishing of these Services, including but not limited to mistakes, omissions, interruptions, delays, tortious conduct or errors, or other defects, representations, or use of these Services or arising out of the failure to furnish the Service, whether caused by acts of commission or omission, shall be limited to the extension of allowances for interruption. The extension of such allowances for interruption shall be the sole remedy of the Customer or End User and the sole liability of the Company. The Company will not be liable for any special, consequential, exemplary or punitive damages a Customer may suffer, whether or not caused by the intentional acts or omissions or negligence of the Company's employees or agents.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.19 Liability of the Company (Cont'd.)

- 2.19.3 The Company shall not be liable for, nor shall any Service Credits be extended for, any failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood or other catastrophes; any law, order, regulation, direction, action, or request of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over the Company, or of any department, agency commission, bureau, corporation, or other instrumentality of any one or more of these federal, state, or local governments, or any civil or military authority, national emergencies, insurrections, riots, wars, unavailability of rights-of-way or materials, or strikes, lock-outs, work stoppages, or other labor difficulties.
- 2.19.4 The Company shall not be liable for any act or omission by any entity furnishing to the Company or to the Company's Customers facilities or equipment used for or with the Services the Company offers.
- 2.19.5 The Company shall not be liable for any damages or losses due to the fault or negligence of the Customer or due to the failure or malfunction of Customer-provided equipment or facilities.
- 2.19.6 Company shall not be liable for the claims of vendors supplying equipment to Customers of the Company which may be installed at premises of the Company, nor shall the Company be liable for the performance of any such vendor or vendor's equipment.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.19 Liability of the Company (Cont'd.)

2.19.7 The Company does not guarantee nor make any warranty with respect to installations it provides for use in an explosive atmosphere. The Customer indemnifies and holds the Company harmless from any and all loss, claims, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted, or asserted by any other party or person(s), and for any loss, damage, or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location, or use of any installation so provided.

2.19.8 The Company is not liable for any defacement of or damage to the Premises resulting from the furnishing of Services, equipment, or associated wiring on such Premises or the installation or removal thereof, except where such defacement or damage is the result of negligence or willful misconduct on the part of the agents or employees of the Company.

2.19.9 The Company shall not be liable for any damages resulting from delays in meeting any Service dates.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.19 Liability of the Company (Cont'd.)

2.19.10 The Company shall not be liable for any damages whatsoever associated with service, facilities, or equipment which the Company does not furnish or for any act or omission of Customer or any other entity furnishing services, facilities or equipment used for or in conjunction with Service.

2.19.11 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 AND FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

## 2.20 Indemnification

The Customer and any End User, jointly and severally, shall indemnify, defend and hold the Company harmless from claims, loss, damage, expense (including attorney's fees and court costs), or liability (including liability for patent infringement) arising from: (1) any claims made against Company by any End User in connection with the delivery or consumption of Services; (2) combining with, or using in connection with facilities the Company furnished, facilities the Customer or End User furnished; or (3) use of facilities the Company furnished in a manner the Company did not contemplate and over which the Company exercises no control. In the event that any infringing use is enjoined, the Customer, at its option and expense, may obtain immediately a dismissal or stay of such injunction, obtain a license or other agreement so as to extinguish the claim of infringement, terminate the claimed infringing use, or modify such combination so as to avoid any such infringement. In addition and without limitation, the Customer and any End Users shall defend, on behalf of the Company and upon request by the Company, any suit brought or claim asserted against the Company for any such claims.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.21 Maintenance and Testing

2.21.1 Upon suitable notice, the Company may make such tests, adjustments, and inspections as may be necessary to maintain the Company's facilities in satisfactory operating condition. No interruption allowance will be credited to the Customer for the period during which the Company makes such tests, adjustments, or inspections.

2.21.2 Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer or End User is complying with the requirements set forth above for the installation, operation, and maintenance of Customer provided facilities, equipment, and wiring in the connection of Customer provided facilities and equipment to Company-owned facilities and equipment. 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 (10) days of receiving this notice, the Customer must take such action. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of Service, to protect its facilities, equipment, and personnel from harm.

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**SECTION 2. RULES AND REGULATIONS (CONT'D.)**

2.22 Determination of Jurisdiction of Mixed Interstate and Intrastate Service

When mixed interstate and intrastate Service is provided over a dedicated facility, the jurisdiction will be determined as follows:

- 2.22.1 If the Customer's estimate of the intrastate traffic on the Service equals 10% or more of the total traffic on that Service, the Service will be provided according to the applicable rules and regulations of this tariff.
- 2.22.2 If the Customer's estimate of the intrastate traffic on the Service is less than 10% of the total traffic on that Service, the Service will be provided according to the applicable rules and regulations of the Company's interstate tariff.
- 2.22.3 If the jurisdiction of interstate traffic on the Service changes to the extent that it alters the jurisdiction of the Service, the Customer must notify the Company of any required change in status. The affected Service will revert to the appropriate jurisdictional tariff within the next full billing cycle. No retroactive rate adjustments will apply to the period prior to the change in the Company's records. Any applicable Term Agreement will be transferred with the jurisdictional change.

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LOCAL COMMUNICATIONS SERVICES

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**SECTION 3. - DESCRIPTION OF SERVICES**

The Company provides data transport between End Users and its Customers using a variety of digital transmission technologies, over the Company's own facilities and/or facilities of other carriers.

Depending on distance from the Company's facilities, Services may not be available to all customers. Special construction charges may apply in each case. Company's Services are data services only and will not be accompanied by 411, 911, or other voice services. In addition to the charges specified for each Service, additional charges may apply for transfers of data per month, at certain times in excess of certain thresholds, or for certain billing, monitoring or other services. Other services may be provided by the Company on an Individual Case Basis, depending on such factors as length of loops involved, quality of loops and other factors.

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**SECTION 4. RATES AND CHARGES**

Access Services for Interstate Communication Services

Description of Services

The Company provides data transport between End-Users and its Customers using a variety of digital transmission technologies, over the Company’s own facilities and/or facilities of other carriers.

Depending on distance from the Company’s facilities, service may not be available to all customers. Special construction charges may apply in each case. Company’s services are data services only and will not be accompanied by 411, 911, or other voice services. In addition to the charges specified for each service, additional charges may apply for transfers of data per month, at certain times, in excess of certain thresholds, or for certain billing, monitoring or other services. Other services may be provisioned by the company on an individual case basis (ICB), depending on such factors as length of loops involved, quality of loops and other factors.

TDM Connectivity Charge

All Business Access Service options may be assessed a TDM Connectivity Charge. This is a monthly recurring charge assessed on services that rely on Time Division Multiplexing (“TDM”) equipment and facilities in areas where an alternative Internet Protocol (“IP”) based service exists. The amount of the charge is dependent upon the bandwidth capacity in use at a service location. The bandwidth capacity will be classified as 64kbps or 1.544Mbps.

Monthly Recurring Charge

Per Circuit with 64kbps Bandwidth Capacity	\$50.00
Per Circuit with 1.544Mbps Bandwidth Capacity	\$300.00

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LOCAL COMMUNICATIONS SERVICES

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**SECTION 4. - RATES AND CHARGES (CONT'D.)**

4.1 Local Loop (per month)

144 kbps IDSL	\$144.70
160 kbps	\$144.80
200 kbps	\$173.70
416 kbps	\$241.20
784 kbps	\$318.30
1040 kbps	\$384.00
1.54 Mbps	\$482.40

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**SECTION 4. - RATES AND CHARGES (CONT'D.)**

4.2 Aggregation

Time From Interconnection	With New Edge Provided DS-3 link (up to 25 miles)	Without DS-3 Link
First Month	\$1,929.40	\$964.70
Second Month	\$3,858.80	\$1,929.40
Third Month	\$5,788.10	\$3,376.40
Fourth Month (After)	\$7,350.00	\$4,823.40
	Note: DS-3 links of more than 25 miles will be priced on an ICB basis.	Note: applies to customers in same collocation space as well as those who purchase or provide their own DS3 interconnection.

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## SECTION 4. - RATES AND CHARGES (CONT'D.)

## 4.3 Non-recurring Charges

Standard Installation	\$656.25
Nonstandard Installation (materials extra)	\$656.25 + \$70 per hour after 2 <sup>nd</sup>
Reschedule visit due to lack of exit	\$262.50
Standard Inside move	\$262.50
Non standard in-side move (materials extra)	\$262.50 + \$70 per hour after 2 <sup>nd</sup>
Outside Move	\$656.25
Cancellation of order— within ILEC cancellation period	\$87.50
Cancellation of order— outside ILEC cancellation period	\$481.25
Site survey (on request)	\$166.25
Speed Change	\$175.00
Inside wiring repair (materials extra)	\$166.25 + \$40/hour after 1 <sup>st</sup>

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**SECTION 5 - EARTHLINK BUSINESS SERVICES, RATES AND CHARGES**

The rates provided in Section 5 apply to Customers that are currently in a Service Term agreement with the Company. All Customers being provided Month to Month services through an expired service term or who have never had a contractual relationship with the Company will find the rates for their specific out of contract services in Section 6 - Non-Term Rates.

5.1 [Reserved For Future Use]

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**SECTION 5 - EARTHLINK BUSINESS SERVICES, RATES AND CHARGES (CONT'D.)**

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**SECTION 5 - EARTHLINK BUSINESS SERVICES, RATES AND CHARGES (CONT'D.)**

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**SECTION 5 - EARTHLINK BUSINESS SERVICES, RATES AND CHARGES (CONT'D.)**

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**SECTION 5 - EARTHLINK BUSINESS SERVICES, RATES AND CHARGES (CONT'D.)**

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**SECTION 5 - EARTHLINK BUSINESS SERVICES, RATES AND CHARGES (CONT'D.)**

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**SECTION 5 - EARTHLINK BUSINESS SERVICES, RATES AND CHARGES (CONT'D.)**

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**SECTION 5 - EARTHLINK BUSINESS SERVICES, RATES AND CHARGES (CONT'D.)**

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**SECTION 6 - NON-TERM RATES**

The rates provided in this section only apply to Customers that are being provided Month to Month services through an expired Service Term agreement or who have never had a Service Term Agreement with the Company. Customers still under a current Service Term agreement with the Company will find the rates for their services in Section 5 - EarthLink Complete Voice Services.

6.1 TDM Connectivity Charge

All Business Access Service options may be assessed a TDM Connectivity Charge. This is a monthly recurring charge assessed on services that rely on Time Division Multiplexing (“TDM”) equipment and facilities in areas where an alternative Internet Protocol (“IP”) based service exists. The amount of the charge is dependent upon the bandwidth capacity in use at a service location. The bandwidth capacity will be classified as 64kbps or 1.544Mbps.

Monthly Recurring Charge

Per Circuit with 64kbps Bandwidth Capacity	\$50.00
Per Circuit with 1.544Mbps Bandwidth Capacity	\$300.00

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4001 Rodney Parham Rd.  
Little Rock, Arkansas 72212

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LOCAL COMMUNICATIONS SERVICES

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**SECTION 6 - NON-TERM RATES, (CONT'D.)**

6.1 [Reserved For Future Use]

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