

Missouri Public
Service Commission

REC'D JUN 04 2001

IP COMMUNICATIONS CORPORATION
D/B/A
IP COMMUNICATIONS OF THE SOUTHWEST CORPORATION

REGULATIONS AND SCHEDULE OF CHARGES
FOR LOCAL SERVICES and SPECIAL SERVICES
WITHIN THE STATE OF MISSOURI

This Tariff contains the regulations and rates applicable to the provision of local services and special services by Company. This Tariff is not applicable to non-common carrier services or to services that are not jurisdictionally intrastate.

IP Communications Corporation D/B/A/ IP Communications of the Southwest Corporation operates as a competitive telecommunications company within the state of Missouri.

June 2001 Tariff

Missouri Public
Service Commission

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Issued: June 1, 2001
Issued by: Sean Minter, President
IP Communications Corporation
17300 Preston Road, Suite 300
Dallas, TX 75252

Effective: July 5, 2001

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PARTICIPATING CARRIERSMissouri Public
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None

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EXPLANATION OF SYMBOLS

R	-	to signify a rate reduction
I	-	to signify a rate increase
C	-	to signify a changed regulation
T	-	to signify a change in text but no change in a rate of regulation
S	-	to signify a reissued matter
M	-	to signify a matter relocated without change
N	-	to signify a new rate or regulation
D	-	to signify a discontinued rate or regulation
Z	-	to signify a correction
N/A	-	to signify a non-active service

The Missouri Public Service Commission has waived the following rules and statutes for Company:

4 CSR 240-10.020	Depreciation Fund Income
4 CSR 240-20.010(2)(C)	Posting of exchange rates at central operation offices
4CSR 240-30.040	Uniform System of Accounts
4 CSR 240-32.030(1)(B) and (C)	Exchange Area maps and records of access lines
4 CSR 240-32.030(2)	In-state record keeping
4 CSR 240-32.050(3) - (6)	Information concerning local service tariffs, maps, directories, and telephone numbers
4CSR 240-32.070(4)	Coin telephone
4CSR 240-33.030	Minimum charge rule
4 CSR 240-33.040(5)	Finance fee
Section 392.240(1)	Rates reasonable average return on investment
Section 392.270	Property valuation
Section 392.280	Depreciation rates
Section 392.290	Issuance of Securities
Section 392.310	Issuance of stocks and bonds
Section 392.320	Stock dividends
Section 392.330	Issuance of securities, debt and notes
Section 392.340	Reorganization

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1. GENERAL INFORMATION

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This Tariff contains the regulations and rates applicable to the provision of non-switched local exchange service by the Company. This tariff is not applicable to non-common carrier services or to services that are not jurisdictionally intrastate. Customers and users may use services and facilities provided under this Tariff to obtain access to services offered by other service providers. The Company is responsible under this Tariff only for the services and facilities provided hereunder, and it assumes no responsibility for any service provided by any other entity that purchases services from the Company and/or services under this Tariff, in order to originate or terminate its own services, or to communicate with its own Customers.

2. REGULATIONS

2.1 Definitions

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

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

Application for Service/Service Application/Service Order: Standard Company order form(s) which in total includes all pertinent billing, technical and other descriptive information which will enable the Company to provide Service.

Authorized User: A person, firm, corporation or other entity (including Customer) that either is authorized by the Customer to receive or send communications or is placed in a position by the Customer, either through acts or omissions, to send or receive communications.

Business Applicant: A Business Applicant is any entity or individual who applies for Service under this Tariff whose primary use of the Service will be of a business, professional, institutional, or otherwise occupational nature.

Business Customer: A Business Customer is a Customer who subscribes to the Company's Service(s) and whose primary use of the Service is of a business, professional, institutional, or otherwise occupational nature.

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2.1 Definitions (cont'd)

Business Service: A Service is classified as Business Service where the use is primarily or substantially of a business, professional, institutional, or otherwise occupational nature. Where the business use, if any, is incidental and where the major use is of a social or domestic nature, Service is classified as Residential Service if installed in a residence. See also definition of Residential Service.

Cancellation of Order: A Customer initiated request to discontinue processing a Service Order, either in part or in its entirety, prior to its completion. Cancellation charges will be assessed for each Circuit-end or Dedicated Access line canceled from an order prior to its completion by Company, under the following circumstances; (1) if the Local Access Provider has confirmed in writing to the Company that the Circuit-end or Dedicated Access line will be installed; and/or (2) if the Company has already submitted facilities orders to an interconnecting telephone company/ and/or (3) in accordance with Section 2.4.1 Cancellation charges will be assessed for each Circuit comprising Interexchange Service subject to a Cancellation of Order in accordance with Section 2.

Channel or Circuit: A dedicated communications path between two or more paths.

Communication Services: The Company's local exchange and private line services.

Company: IP Communications Corporation d/b/a IP Communications of the Southwest Corporation

Customer or Client: The person, firm, corporation, governmental unit or other entity (including the successors and assigns of such entities) which orders Service - - either for its own use as a resale carrier or as a non-profit manager of a sharing group - - and which is responsible for the payment of charges and for compliance with Company Tariff regulations.

Customer Premises/Customer's Premises: Locations designated by a Customer where Service is originated/terminated whether for its own communications needs or for the use of third parties.

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2.1 Definitions (cont'd)

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DSL: Digital Subscriber Line.

DUC: Designated Underlying Carrier.

Expedite: A Service Order that is processed at the request of the Customer in a time period shorter than the Company standard Service interval.

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

Installation: The connection of a Circuit, Dedicated Access Channel, or port for new, changed or an additional service.

Interexchange Service/ (IXC): Interexchange Service means that portion of a Channel or Circuit between a Company designated Point-of-Presence in one exchange and a Company designated Point-of-Presence in another exchange.

Interruption: A condition whereby the Service or a portion thereof is inoperative beginning at the time of notice by the Customer to the Company that such Service is inoperative and ending at the time of restoration.

Joint User: A Person, firm or corporation that is designated by the Customer as a User of Services furnished to the Customer by Company and to whom a portion of the charges for the Service will be billed under a Joint User Arrangement as specified herein.

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

Nonrecurring Charges: One-time charges relevant to Service.

Payment Method: The manner in which the Customer is authorized by the Company to pay charges for Service.

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Private Line: A Channel or Circuit dedicated to a particular customer without regard to actual use.

Recurring Charges: The monthly charges to the Customer for Services, facilities and equipment, that continue for the agreed upon duration of the Service

Residential Applicant: A Residential Applicant is any individual who applies for Service under this Tariff whose primary use of the Service will be of a social or domestic nature.

Residential Customer: A Residential Customer is one who subscribes to the Company's Service(s) and whose primary use of the Service(s) is of a social or domestic nature.

Residential Service: Service is classified as Residential Service where the use is primarily of a domestic or social nature. Where the business use, if any, is incidental and where the major use is of a social or domestic nature. Service is classified as Residential Service if installed in a residence.

Restore: To make Service operative following an Interruption by repair, reassignment, re-routing, substitution of component parts, or otherwise, as determined by the carrier(s) involved.

Service: Service means any or all telecommunications service(s) provided to or obtained by Customer, any Authorized User of third party from the Company which is described in this Tariff as modified from time to time.

Service Commencement Date: The first day following the date on which the Company notifies the Customer that the requested service or facility is available for use, unless extended by the Customer's refusal to accept Service that does not conform to standards set forth in the Service Order or 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.

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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 Service 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.

Shared: A facility of equipment system or subsystem that can be used simultaneously by several Customers.

Termination: Permanent disconnection of telecommunications service.

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

User or End User: A Customer, Joint User, or any other person authorized by a Customer to use Service provided under this Tariff.

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2.2 Undertaking of the Company

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2.2.1 Scope: The Company undertakes to provide Service in accordance with the terms and conditions set forth in this Tariff and any Service Agreement executed by the Customer.

2.2.2 Availability of Service

(A) Service is available twenty-four (24) hours per day, seven (7) days per week, subject to transmission, atmospheric, topographic and like conditions.

(B) Service is subject to the availability of suitable facilities. The Company reserves the right to limit the length of communications or to discontinue furnishing Service because of (i) the lack of transmission medium capacity, (ii) the need to perform maintenance, modifications, upgrades, relocations or other similar activities necessary for the provision of Service or (iii) any cause beyond its control.

(C) The Company reserves the right to arrange for Service to be furnished through the facilities of another entity when necessary.

2.2.3 Liability of the Company

(A) Except as stated in this Section 2.2.3, the Company shall have no liability for damages, including without limitation direct, consequential, special, incidental or indirect damages, arising out of or related to events, acts, rights or privileges contemplated in this Tariff.

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2.2.3 Liability of the Company (cont'd)

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- (B) The liability of the Company for damages arising out of mistakes, interruptions, omissions, delays, errors or defects occurring in the course of establishing, furnishing, rearranging, changing, or terminating Service under this Tariff, and not caused by the failure or negligence of the Customer, shall in no event exceed either (i) an amount equivalent to the proportionate charges the Company would assess the Customer for the period of Service during which such mistakes, interruptions, omissions, delays, errors or defects occur, or (ii) the monthly fee relating to the Service, whichever is less. No other liability in any event shall attach to the Company.

IN NO EVENT WILL COMPANY BE LIABLE FOR ANY DAMAGES, WHETHER ARISING FROM TORT OR CONTRACT, INCLUDING, BUT NOT LIMITED TO, LOSS OF DATA, LOST PROFITS, COST OF COVER, OR OTHER SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES WHETHER OR NOT ARISING OUT OF THE SERVICES OR ANY EQUIPMENT WHETHER PROVIDED BY COMPANY OR A THIRD PARTY, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY. THIS LIMITATION WILL APPLY EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. COMPANY'S TOTAL LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT OF FEES PAID BY CLIENT UNDER THE APPLICABLE SERVICE ACTIVATION FORM. THE PROVISIONS OF THIS AGREEMENT ALLOCATE THE RISKS BETWEEN COMPANY AND CLIENT. COMPANY'S PRICING REFLECTS THIS ALLOCATION OF RISK AND THE LIMITATION OF LIABILITY SPECIFIED HEREIN.

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- (C) The Company shall not be liable for any failure of performance hereunder due to causes beyond its control, including but not limited to acts of God, fire, flood or other catastrophes; any law, order, regulation, directive, action or request of the United States Government, or any other government, including federal, state and local governments having jurisdiction over the Company, or of any department, agency, commission, bureau, corporation or other instrumentality of any one or more of said governments, or of any civil or military authority; any national emergencies, insurrections, riots, wars; or any labor difficulties.
- (D) The Company shall not be liable for any act or omission of any other entity furnishing to the Customer equipment, facilities or service used with the Service furnished in this Tariff; nor shall the Company be liable for any damages or losses due to the failure or negligence of the Customer or due to the failure of Customer provided equipment or facilities.
- (E) **MOREOVER, TO THE EXTENT LIABILITY HAS NOT BEEN LIMITED BY OTHER TARIFF LANGUAGE, COMPANY WILL NOT BE LIABLE FOR ANY ERRORS OR OMISSIONS BY ANY THIRD PARTY SUPPLIER INCLUDING, BUT NOT LIMITED TO, ACTIONS OF SOUTHWESTERN BELL TELEPHONE, E.G. PLACING A NEW SERVICE ON A LINE THAT WAS USED AS A SECURITY ALARM CIRCUIT.**

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- (F) The Company is not liable for any damages, including usage charges, the Customer may incur as a result of the unauthorized use or the misuse of the Service. This unauthorized use or misuse includes, but is not limited to, the unauthorized use or misuse of Service by the Customer's employees, third parties, or the public. The Company does not warrant or guarantee that it can prevent unauthorized use or misuse.
- (G) There is no express or implied warranty or condition, whether of merchantability, fitness for a particular purpose or otherwise, to the extent applicable, with respect to the Service provided by the Company.
- (H) This provision does apply to any form of conduct that Missouri statute or applicable case law determines to be contrary to public policy such as gross negligence or intentional misconduct. *See Alack v. Vic Tanny*, 923 SW2d 330, (Mo Banc 1996).

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2.2.4 Indemnity

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- (A) Each Party shall indemnify, defend and hold the other, its employees, principals (partners, shareholders or holders of an ownership interest, as the case may be) and agents, harmless from and against any third party claims, demands, loss, damage or expense relating to bodily injury or death of any person or damage to real and/or tangible personal property directly caused by the gross negligence or willful misconduct of the indemnifying Party, its personnel or agents in connection with the performance of its obligations hereunder.
- (B) Client Indemnification of Company. The Client will indemnify and hold Company, its stockholders, officers, directors, employees and agents, and their respective successors and assigns harmless from and against all loss, damage, liability or claim, including court costs and reasonable attorneys' fees, arising from or in any manner connected with: (a) any breach by the Client of any material representation, warranty or provision made in connection herewith or contained herein, (b) the Client's or its users' fraud, gross negligence, intentional misconduct or violation of any governmental law or regulation, (c) claims or actions brought in connection with use of the Company network or the Services, including transmission, reception and/or content of information of whatever nature transmitted or received by Client or its users, or (d) any loss, damage, or destruction of any property, whether owned by the Client or others.
- (C) **Procedure for Indemnification.** If claiming any indemnification hereunder, the indemnified Party shall promptly provide the indemnifying Party with written notice of any claim which the indemnified Party believes falls within the scope of the foregoing paragraphs. The indemnified Party may, at its own expense, participate in the defense if it so chooses, provided that the indemnifying Party shall control such defense and all negotiations relative to the settlement of any such claim and further provided that any settlement intended to bind the indemnified Party shall not

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2.2.4 Indemnity (cont'd)

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- (D) be final without the indemnified Party's written consent, which shall not be unreasonably withheld or delayed.
- (E) **Limited Warranties and Disclaimers.** Company warrants that the Services will be performed by personnel who in Company's reasonable opinion are qualified, consistent with generally accepted industry standards, and will be in the kind and quality described in the Service Activation Form and the applicable section of the Service Level Attachment. Client must report any deficiencies in the Services to Company in writing as soon as possible but no later than fifteen (15) days of performance of the Services in order to receive warranty remedies. Company may give advice to Client based on information supplied by Client or third parties, which advice will be based upon the assumption that the information provided was complete and accurate. Company shall exercise reasonable care in giving such advice, but shall in no event be responsible for the decisions taken on the basis of advice given by Company, which responsibility shall at all times remain with Client. **EXCEPT FOR THE ABOVE EXPRESS LIMITED WARRANTY, THE SERVICES (INCLUDING ANY EQUIPMENT) WILL BE FURNISHED "AS IS" AND WITH ALL FAULTS. COMPANY MAKES, AND CLIENT RECEIVES, NO WARRANTIES, EXPRESS, IMPLIED, STATUTORY, IN THIS AGREEMENT OR IN ANY COMMUNICATION WITH CLIENT REGARDING THE SERVICES. COMPANY SPECIFICALLY DISCLAIMS ALL OTHER WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY EXPRESSLY DISCLAIMS RESPONSIBILITY FOR OR LIABILITY ARISING OUT OF OR BASED UPON THE CONTENT OF INFORMATION TRANSMITTED BY CLIENT OR THE RESULTS OF ANY SUCH TRANSMISSION. COMPANY DOES NOT WARRANT**

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2.2.4 Indemnity (cont'd)

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- (F) **THAT THE OPERATION OF THE SERVICES (INCLUDING ANY EQUIPMENT) WILL BE UNINTERRUPTED OR ERROR FREE.**
- (G) **Exclusive Remedy.** For any breach of the above warranty, Client's exclusive remedies, and Company's entire liability, shall be either the re-performance of the Services or, so long as the Client gives proper notification, the amount of the applicable credit listed on the Service Level Attachment.
- (H) **No Warranty on Software.** COMPANY SPECIFICALLY MAKES NO WARRANTY WITH RESPECT TO SOFTWARE, TECHNOLOGY, OR EQUIPMENT (COLLECTIVELY, "SOFTWARE") PROVIDED OR USED HEREUNDER BY EITHER PARTY AND DOES NOT WARRANT THAT ANY SOFTWARE PROVIDED TO THE CLIENT OR USED HEREUNDER IS ERROR FREE, SHALL OPERATE WITHOUT INTERRUPTION OR PROVIDE SECURE OPERATIONS. NEITHER COMPANY NOR THE OWNER OF ANY SOFTWARE USED BY OR LICENSED TO COMPANY SHALL BE RESPONSIBLE FOR (A) ANY APPLICATION OF THE RESULT OBTAINED FROM THE USE OF ANY SOFTWARE, (B) UNINTENDED OR UNFORESEEN RESULTS OBTAINED BY CLIENT IN THE USE OF SUCH SOFTWARE, OR FOR THE DELAY OR (C) FAILURE OF ANY SERVICE CAUSED BY THE FAILURE OR DELAY OF SOFTWARE PROVIDED OR TO BE PROVIDED BY ANY THIRD PARTY.

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2.2.5 Claims

- (A) 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 (i) claims for libel, slander, invasion of privacy, or infringement of copyright in connection with the material transmitted over the Company's Service or facilities; (ii) claims for infringement of patent arising from the combination, connection or use of the Company's equipment, facilities or Service with Customer-provided equipment, facilities or services; and (iii) any other claim resulting from any act or omission of the customer or patron(s) of the Customers relating to the use of the Company's Service or facilities.
- (B) The Company and Customer shall mutually agree all claims, actions or proceedings arising in connection with the Service shall be governed by the laws of the State of Missouri, and venue for such claims shall be in the State of Texas.

2.2.6 Fraud/Mistake

IF THE CLIENT SUSPECTS OR REASONABLY SHOULD HAVE SUSPECTED ANY MISTAKE AND/OR FRAUDULENT ACTIVITY RELATED TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING STOLEN CALLING CARD OR SUBSCRIBER IDENTIFICATION NUMBERS, PERSONAL IDENTIFICATION NUMBERS AND PASSWORDS, THE CLIENT SHALL PROVIDE COMPANY IMMEDIATE WRITTEN NOTIFICATION OF SUCH MISTAKE AND/OR FRAUDULENT ACTIVITY PURSUANT TO THE NOTICE PROVISION OF THIS AGREEMENT AND SHALL REMAIN RESPONSIBLE FOR ALL COST AND EXPENSE INCURRED BETWEEN SUCH TIME AS THE CLIENT KNEW OR REASONABLY SHOULD HAVE KNOWN OF SUCH MISTAKE AND/OR FRAUDULENT ACTIVITY AND THE ACTUAL DELIVERY OF SUCH NOTICE TO COMPANY.

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2.2.7 Dispute Resolution

Claims, disputes, or other matters in question between the Parties either with respect to the interpretation of any provision of this Agreement or with respect to the damages or performance hereunder shall be negotiated in good faith and resolved as follows: (a) upon written request of a Party, a designated officer of each Party shall endeavor to resolve the dispute within five (5) business days of notification of said dispute; and (b) should these individuals fail to resolve the dispute, a senior executive of the management team of each Party shall meet in an effort to resolve said dispute within five (5) business days of notification of failure to resolve issues by (a) above. Formal arbitration shall only be undertaken should steps (a) and (b) fail to produce an amicable resolution within the foregoing time periods. Any dispute arising between Company and Client in connection with this Agreement that is not settled to their mutual satisfaction within the above periods provided in this Agreement, shall be settled by arbitration in Dallas, Texas in accordance with the Commercial Arbitration Rules of the American Arbitration Association in effect on the date that a Party gives notice of its demand for arbitration under this Article. If the Parties cannot agree on a single arbitrator within fifteen (15) calendar days after the applicable period has expired, Company and Client shall each select an arbitrator within such fifteen (15) day period and the two (2) arbitrators shall select a third arbitrator within ten (10) calendar days. If the Parties fail to appoint arbitrators or the arbitrators cannot agree on a third arbitrator, then either Party may request that the American Arbitration Association select and appoint a neutral arbitrator who shall act as the sole arbitrator. In any such arbitration proceeding, the Parties may take discovery pursuant to applicable laws or rules. The Parties shall be entitled to submit expert testimony and/or written documentation in such arbitration proceeding.

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The decision of the arbitrator or arbitrators shall be final and binding upon Company and Client and shall include written findings of law and fact, and judgment may be obtained thereon by either Party in a court of competent jurisdiction. Company and Client shall each bear the cost of preparing and presenting its own case. The cost of the arbitration, including the fees and expenses of the arbitrator or arbitrators, shall be shared equally by Company and Client unless the award otherwise provides. The arbitrator or arbitrators shall be instructed to establish procedures such that a decision can be rendered within sixty (60) calendar days of the appointment of the arbitrator or arbitrators. In no event shall the arbitrator or arbitrators have the power to award any damages described in and limited by Section 5.7 (Limitation of Liability) which section shall be binding on the arbitrator(s). Nothing in this section will prohibit a customer from utilizing the Commission's complaint procedures.

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2.2.8 Provision of Equipment and Facilities REC'D JUN 04 2001

- (A) Except as otherwise indicated, Customer-provided equipment and facilities used in connection with this Service shall be so constructed, maintained and operated as to work satisfactorily within the Company's Service, equipment and facilities.
- (B) The Company shall not be responsible for the installation, operation or furnishing of any Customer-provided equipment or facilities. Where such equipment or facilities are used in connection with the Service furnished pursuant to this Tariff, the responsibility of the Company shall be limited to the furnishing of the Service under this Tariff and to the maintenance and operation of such Service. The Company shall not be liable to the Customer if changes in any of the Service (i) renders obsolete any of the Customer-provided equipment or facilities; (ii) requires modification of the Customer-provided equipment or facilities; or (iii) otherwise affects the reception of signals by Customer-provided equipment or facilities.

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2.3 Obligations of the Customer

2.3.1 Payment Arrangements

- (A) The Customer is responsible for payment of all charges for Service furnished by the Company to the Customer. Company shall invoice Client monthly, unless otherwise expressly specified in the applicable Service Activation Form or Service Addendum. This responsibility is not changed due to any unauthorized use or misuse of the Service by the Customer's employees, third parties, or the public. Customer shall indemnify and hold the Company harmless from all costs, expenses claims or actions arising from unauthorized use or misuse of any nature of the Service. The Customer shall not be excused from paying the Company for Service provided to the Customer or any portion thereof on the basis that unauthorized use or misuse occurred over the Service.
- (B) In cases where special construction or materials or unusual expenses are required to supply Service to the Customer, the Customer shall pay additional charges to compensate for the additional costs.
- (C) Federal, state and local sales, use, excise and other taxes, where applicable, will be listed as separate line items on customer's bill and shall be added to the charges contained therein, unless the Customer provides a properly executed certificate of exemption from such taxes. It shall be the responsibility of the Customer to pay these taxes and to accept the liability of any such unpaid taxes that may become applicable. All charges and surcharges other than taxes and franchise fees must have prior Commission Approval.

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2.3.1 Payment Arrangements (cont'd)

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- (D) Charges for Service are payable in advance except for per minute or per call charges, if any, which are payable in arrears. Bills are due and payable when tendered and are payable at the business office of the Company or at any other office designated by the Company.
- (E) Interest, at the lesser of (i) the rate of one and one-half (1.5) percent compounded monthly (19.56% per annum) and computed on a daily basis or (ii) the highest rate allowed by law per month, may accrue upon any unpaid amount commencing thirty (30) days after the date of the invoice. If the Company initiates legal proceedings to collect any amount due hereunder and the Company substantially prevails in such proceedings, then the defendant Customer shall pay the reasonable counsel fees and costs of the Company in prosecuting such proceedings and appeals therefrom.

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2.3.1 Payment Arrangements (cont'd) **REC'D JUN 04 2001**

- (F) Charges shall be deemed correct and properly billed if the Customer fails to notify the Company in writing, by phone or in person with reasonable detail that it is disputing a particular charge within thirty (60) day after the date of the invoice.
- (G) A fee up to the highest amount permitted by applicable law will be charged for all returned checks.
- (H) In the event of any good faith dispute with regard to a portion of an invoice, the undisputed portion shall be paid as provided herein. In order to dispute an amount on any invoice, the Client must provide a written explanation of the dispute no later than the date the Client makes payment on such invoice, which explanation shall be accompanied by reasonably sufficient evidence of the disputed amount. The Client waives its rights to dispute any payment if not raised prior to paying the applicable invoice. Company shall review the information provided and in its sole discretion make a determination whether such disputed amount was properly invoiced. Upon resolution of the disputed portion, any amounts owed to Company shall be paid immediately with interest at the rate set forth above accruing from the date such amounts were originally due.

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2.3.2 Service Deposits

REC'D JUN 04 2001

- (A) The Customer may be required to make a Service deposit to be held as a guarantee for payment of charges if the Customer has not established its creditworthiness to the satisfaction of the Company. A deposit does not relieve the Customer of the responsibility for prompt payment of bills on presentation. The deposit will not exceed an amount equal to:

--two month's charges for a service or facility which has a minimum payment period of one month; or

--the charges that would apply for the minimum payment period for a service or facility which has a minimum payment period of more than one month; except that the deposit may include an additional amount in the event that a termination charge is applicable.

- (B) Upon deactivation of Service or after a one-year period of non-delinquency in the payment for Service, the Customer may withdraw this deposit, provided the deposit is not credited against bills for Service and the Customer supplies satisfactory proof of the right to receive the deposit.

- (C) Deposits held will accrue interest at a rate of 1% above the prime lending rate as published in the Wall Street Journal for the last business day of September. The rate to be adjusted October 1 of each year.

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2.3.3 Credit Review

REC'D JUN 04 2001

- (A) Notwithstanding anything to the contrary contained herein, the provision of Services is contingent upon the continuing credit approval of Client by Company and compliance with Company's then current credit policy. At any time during the existence of this Agreement and any Service Addendum, Company may suspend the Services, terminate this Agreement or any relevant Service Addendum, or take any other action under its then current credit policy if it reasonably deems itself insecure with respect to Client's ability to pay due to certain factors including, but not limited to, the failure of Client to pay any invoice when due or should there be a material change in circumstances of Client's actual or anticipated usage hereunder or Client's financial condition. During any period of suspension, no service interruption shall be deemed to occur.

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2.3.4 Liability of the Customer

REC'D JUN 04 2001

- (A) The Customer shall be liable for any damages to or loss of the Company's equipment, facilities or Service or for any injury to the Company's personnel caused by the negligence or willful act of the Customer's officers, employees, agents or contractors.
- (B) The Customer shall be responsible for complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the locations of Company facilities and equipment in any Customer premises or the rights-of-way for which the Customer is responsible, and obtaining permission for Company agents or employees to enter the premises of the Customer or authorized user at any reasonable hour for the purpose of installing, inspecting, repairing, or, upon termination of service as stated herein, removing the facilities or equipment of the Company
- (C) The Customer shall be responsible for 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
- (D) The Customer shall be responsible for keeping the Company's equipment and facilities located on the Customers 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.

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IP Communications Corporation, d/b/a IP Communications of the Southwest Corporation

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2.4 Government or Other Regulation (Mutual Obligation)

Each Party is independently responsible for ensuring that its activities (including the offering or providing of services or facilities) shall comply with applicable laws and government or other regulation. Each Party shall cooperate with the other in defending any civil, criminal or other claim threatened or brought by any governmental agency or third party.

2.5 Confidential Information

The Customer shall submit to the Company true and exact information relating to its Service orders and shall advise the Company of any change in such information. The Customer shall have authority to submit such information to the Company. All information exchanged between the Company and Customer shall be kept confidential except that the Company may make Customer information available where necessary to employees or agents of the Company for the purpose of providing Service.

2.6 Use of Service

2.6.1 Acceptable Use

Client shall not use, nor shall it permit others to use, the Services: (i) for any unlawful, immoral, invasive, infringing, defamatory, fraudulent or obscene purpose; (ii) to send unsolicited email of any kind, regardless of the content or nature of such messages or post the same or similar message to one or more newsgroups; (iii) to send any virus, worm, Trojan horse or harmful code or attachment; (iv) to alter, steal, corrupt, disable, destroy, trespass or violate any security or encryption of any computer file, database or network; (v) so as to interfere with the use of the Company network by any other user; (vi) in a manner that is inconsistent with Company routing policies; (vii) in violation of the acceptable use policies of Company's backbone providers; or (viii) in a manner which, in Company's opinion, is inconsistent with the generally accepted rules of Internet etiquette and conduct. Client further agrees that it shall not, nor shall it permit others to: (a) alter, tamper with, adjust, repair or circumvent any aspect of the

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**Missouri Public
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REC'D JUN 04 2001

Services; (b) resell, pass-through, sublicense, rent, lease, timeshare or re-brand the Services or otherwise provide the Services to any other party; or (c) provide any Content (as defined below) to Company or Company's servers that (1) infringes on any third party's copyright, patent, trademark, trade secret or other proprietary rights or rights of publicity or privacy; (2) violates any law, statute, ordinance or regulation (including without limitation the laws and regulations governing export control); (3) is defamatory, trade libelous, unlawfully threatening or unlawfully harassing; (4) is obscene or contains child pornography; (5) violates any laws regarding unfair competition, anti-discrimination or false advertising; or (6) contains any viruses, Trojan horses, worms, time bombs or other computer programming routines that are intended to damage, detrimentally interfere with, surreptitiously intercept or expropriate any system, data or personal information. If Client, or a third party through Client, violates any of the foregoing prohibitions, Company may immediately suspend the Services and/or terminate this Agreement without further liability or obligation to Client. Client's rights to use the Services are non-exclusive, non-transferable and subject to compliance with the terms and conditions herein. As between Company and Client, all intellectual property and proprietary rights relating to the Services, including but not limited to any specifications, protocols, IP addresses, configurations and routing data related to the Services belong solely and exclusively to Company. Client shall reproduce and include any of Company's proprietary notices on any whole or partial copy of Company's intellectual property or Confidential Information, regardless of the media on which such copy is made.

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Company only makes Services available to adults who are at least 18 years old or minors who have parental permission to use the Services. The Client agrees that it will comply with the terms of the Children's Online Privacy Protection Act of 1998, as amended from time to time, and any regulations promulgated thereunder in connection with the registration and use of the Services by any users who are under the age of 13. The Client must use reasonable efforts to confirm that all users are 18 years or older before permitting them to use any Service. If the Client make Services available to users who are younger than 18 years old then Client will indemnify, defend and hold Company harmless as set forth herein.

2.6.3 Content Responsibility

The Client acknowledges and agrees that Company acts as a passive conduit for, and is not responsible for, the online distribution and publication of the text, pictures, graphics, sound, video, other data and computer software provided by Client or other users to Company or Company's servers, including without limitation, the domain name(s), any trademarks associated with the above-described items or any items advertised for sale ("**Content**"). If Company learns that any Content may, in its sole discretion, create liability for Company or any third party, Company may take any action it deems reasonable or appropriate.

2.6.4 Violation By Users

INDIRECT OR ATTEMPTED VIOLATIONS OF THE POLICY SET FORTH IN THIS SECTION 2.5, AND ACTUAL OR ATTEMPTED VIOLATIONS BY A THIRD PARTY ON BEHALF OF CLIENT OR A CLIENT'S EMPLOYEE OR USER, SHALL BE CONSIDERED VIOLATIONS OF SUCH POLICY BY THE CLIENT.

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2.6.5 Export Compliance

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With regard to the Services, Client agrees to comply with the export laws promulgated by the Bureau of Export Administration of the U.S. Department of Commerce.

2.7 Termination of Service for Cause

2.7.1 Non-payment

Upon non-payment of any sum owing to the Company for more than forty-five (45) days beyond the date the bill for Service is mailed by the Company, or upon violation of any of the terms or conditions governing the furnishing of Service under this Tariff, the Company may, without incurring any liability, terminate the furnishing of Service to the Customer under this Tariff upon 10 days written Notice.

2.7.2 Fraud or Other Harm

The Company reserves the right to terminate Service without notice if it deems such action necessary to protect against fraud or to protect its personnel, agents, equipment, facilities or Service.

2.7.3 Customer's Bankruptcy, Insolvency, or other Related Condition

Notwithstanding (A) and (B) above, the Service shall terminate automatically upon the initiation by or against the Customer of a proceeding in bankruptcy, reorganization, insolvency, receivership or assignment for the benefit of creditor.

2.7.4 Continuing Obligation to Pay

Termination of Service for cause does not relieve the Customer of the obligation to pay all charges that have accrued under this Tariff.

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Process for Business Customers

REC'D JUN 04 2001

For business customers, Company may (a) suspend the Services to Client if any payment required under this Agreement is not received within ten (10) days from any due date, or (b) terminate the Services or this Agreement if (i) any payment required under this Agreement is not received within thirty (30) days from any due date, (ii) any representation or warranty made in connection with this Agreement or any attachment or amendment hereto was untrue in any material respect as of the date of execution of this Agreement or subsequent instrument, or (iii) any insolvency, bankruptcy, assignment for the benefit of creditors, appointment of a trustee or receiver or similar event with respect to the Client has occurred. Notwithstanding anything to the contrary in this Agreement, Company may immediately suspend any Services if fraud or the threat of damage to the Company network is suspected. Client shall remain responsible for all fees accrued prior to the date of termination. In addition, either Party may terminate this Agreement in whole or in part, if the other Party breaches any material term of condition of this Agreement and fails to cure such breach within thirty (30) days after the date of written notice thereof. In the event that the breach is of such a nature that cannot be cured within thirty (30) days, the non-breaching party may extend the time to cure such breach in its discretion. The Parties recognize that any of the Services provided pursuant to this Agreement may be or become subject to government or other regulation. If such regulation affects material provisions of this Agreement or the ability of a Party to perform its obligations hereunder, such Party may terminate this Agreement immediately upon written notice to the other Party.

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2.7.5 Survival

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Any accrued rights to payment, any remedies, and any related provisions in a contractual service agreement will survive any expiration or termination of this Agreement. Upon expiration or termination of this Agreement, each Party shall immediately return the other Party's Confidential Information (as defined below), or at the request of the owner of the Confidential Information, destroy such Confidential Information, and provide to the owner of such Confidential Information a certificate signed by an authorized representative of such Party stating that it has destroyed the original and all copies of the other Party's Confidential Information within five (5) business days of the owner's request such information be destroyed. Notwithstanding the foregoing, each Party shall be entitled to retain one complete copy of the Confidential Information in the exclusive possession of its attorney or general counsel's office solely for use in connection with (a) the defense or pursuit of any dispute arising from this Agreement or (b) any requirement of, or action brought against such Party by, a government, agency or other third party.

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3. SERVICE OFFERINGS AND RATES

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REC'D JUN 04 2001

3.1 Service Offerings

Company offers Point-to-Point T1, DS1, DS3, xDSL and other access services.

xDSL are non-switched, local exchange technologies that allow multiple forms of data, voice and video to be carried over standard twisted pair copper, or UNEs, on the local loop between the central office and consumer site.

Services offered by Company do not include access to/from the Public Switched Network. Company provides data connection only and does not assign or otherwise route traffic by the use of telephone numbers, i.e. NPA-NXX-XXXX.

In the event Company begins to provide services to/from the Public Switched Network, Company will file tariffs reflecting the rates, terms and conditions for such services.

3.2 Service Limitations

The furnishing of all services under this Tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

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3.3 Rates

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Rates for Dedicated Access and Private Line service will be determined on an Individual Case Basis (ICB). ICB rates will be structured to recover the Company's cost of providing the services and will be made available to Customer in a non-discriminatory manner. Terms of specific ICB contracts will be made available to the Missouri Public Service Commission Staff upon request on a proprietary basis. ICB rates will not be used for switched services

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