

Enterprise Telcom Services, Inc.

# Enterprise Telcom Services, Inc.<sup>®</sup>

Kentucky P.S.C. Tariff No. 1  
Original Page No. 1

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## CHECK SHEET

The title page and pages 1-32 inclusive of this Tariff are effective as of the date shown. Original and revised pages, as named below, comprise all changes from the original Tariff in effect on the date indicated.

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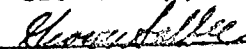
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OF KENTUCKY  
Effective: August 21, 1992  
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AUG 21 1992

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SECTION 9 (1)

BY:   
PUBLIC SERVICE COMMISSION MANAGER

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## APPLICABILITY

This Tariff contains the Service offerings, rates, terms and conditions applicable to the furnishing of intrastate interLATA telecommunications Services within the State of Kentucky by Enterprise Telcom Services, Inc. (hereinafter "ETS").

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BY: Chas. L. Hill  
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## CONCURRING, CONNECTING AND OTHER PARTICIPATING CARRIERS

### CONCURRING CARRIERS:

No Concurring Carriers

### CONNECTING CARRIERS:

No Connecting Carriers

### OTHER PARTICIPATING CARRIERS:

No Participating Carriers

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## EXPLANATION OF SYMBOLS

- (C) To signify changed regulation
- (D) To signify discontinued material
- (I) To signify rate or charge increase
- (M) To signify material relocated without change in text or rate
- (N) To signify new material
- (R) To signify reduction
- (S) To signify reissued material
- (T) To signify a change in text but no change in rate or regulation
- (Z) To signify a correction

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## I. DEFINITIONS

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

### Access Coordination

Provides for the design, ordering, installation, coordination, pre-service testing, service turn-up and maintenance on an ETS or Customer provided Local Access Channel.

### Administrative Change

A change in Customer billing address or contact name.

### Alternate Access

Alternate Access is a form of Local Access except that the provider of the Service is an entity, other than the Local Exchange Carrier, authorized or permitted to provide such Service. The charges for Alternate Access may be subject to private agreement rather than published or special Tariff if permitted by applicable governmental rules.

### Application for Service

A standard ETS order form which includes all pertinent billing, technical and other descriptive information which will enable ETS to provide a communication Service as required.

### ASR

ASR (Access Service Request) means an order placed with a Local Access Provider for Local Access.

### Authorized User

A person, firm, corporation or other entity 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.

### Bandwidth

The total frequency band, in hertz, allocated for a channel.

### Bill Date

The date on which billing information is compiled and sent to the Customer.

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## Call

A completed connection between the Calling and Called Stations.

## Called Station

The telephone number called.

## Calling Station

The telephone number from which a Call originates.

## 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 ETS, under the following circumstances: (1) if the LEC has confirmed in writing to ETS that the Circuit-end or Dedicated Access line will be installed; or (2) if ETS has already submitted facilities orders to an interconnecting telephone company.

## Channel or Circuit

A dedicated communications path between two or more points having a bandwidth or Transmission Speed specified in this Tariff and selected by a Customer.

## Company

Enterprise Telecom Services, Inc. ("ETS")

## Customer

The person, firm, corporation or governmental unit 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 ETS Tariff regulations. A Customer is considered to be an account for billing purposes. If an entity orders Service in more than one city or requests the assignment of multiple account numbers, each such account is a separate Customer for billing purposes. The term Customer also includes an entity that remains presubscribed to ETS Service after its account(s) are removed from ETS's billing system, subsequently continues to use ETS's network, and is billed by a local exchange carrier for such use, or otherwise uses Service for which no other Customer is obligated to compensate Company.

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## 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 its resale customers.

## DCS

DCS means Digital Cross-Connect System.

## Dedicated Access/Special Access

Dedicated Local Access between the Customer's Premises or serving wire center and the Company's Point-of-Presence for origination or termination of Calls.

## DS-0

DS-0 means Digital Signal Level 0 Service and is a 64 Kbps signal.

## DS-1

DS-1 means Digital Signal Level 1 Service and is a 1.544 Mbps signal.

## DS-0 with VF Access

DS-0 Service with VF Local Access facilities provides for the transmission of analog voice and/or data within 300 Hz to 3000 Hz frequency range.

## DS-0 with DDS Access

DS-0 Service with DDS Local Access facilities provides for the transmission of digital data at speeds of 2.4, 4.8, 9.6 or 56 Kbps.

## Due Date

The Due Date is the date on which payment is due.

## Exemption Certificate

A written Customer designation which certifies that its dedicated facility should be exempted from the monthly Special Access Surcharge because the Service:

- (a) terminates on a device incapable of connecting ETS's network to the local exchange network; or

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- (b) is associated with a Switched Access Service that is subject to Carrier Common Line charges; or
- (c) constitutes a Private Line facility used for Telex Service or radio or television transmissions, or,
- (d) is an open-end termination in a Local Exchange Carrier's switch of an FX line; or
- (e) is a termination that could not make use of a Local Exchange Carrier's common lines.

## Expedite

A Service order initiated at the request of the Customer that is processed in a time period shorter than the ETS standard Service interval.

## FCC

Federal Communications Commission.

## Individual Case Basis (ICB)

Individual Case Basis (ICB) determinations involve situations where complex Customer-specific ETS arrangements are required to satisfactorily serve the Customer. The nature of such Service requirements makes it difficult or impossible to establish general Tariff provisions for such circumstances. When it becomes possible to determine specific terms and conditions for such offerings, they will be offered pursuant to such terms and conditions.

## Installation

The connection of a Circuit, Dedicated Access line, or port for new, changed or an additional Service.

## Interexchange Service

Interexchange Service means that portion of a communications channel between a ETS-designated Point-of-Presence in one exchange and a Point-of-Presence in another exchange.

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## Interruption

Interruption shall mean a condition whereby the Service or a portion thereof is inoperative (as defined in Section III, Performance Specifications), beginning at the time of notice by the Customer to ETS that such Service is inoperative and ending at the time of restoration. See Section II.10.04.

## Kbps

Kilobits per second.

## LATA (Local Access Transport Area)

A geographical area established for the provision and administration of communications Service of a local exchange company.

## Local Access

Local Access means the Service between a Customer Premises and an ETS designated Point-of-Presence.

## Local Access Provider

Local Access Provider means an entity providing Local Access.

## Local Exchange Carrier (LEC)

The local telephone utility that provides telephone exchange services.

## Mbps

Megabits per second.

## Multiplexing

Multiplexing, or "muxing," is the sequential combining of lower bit rate Private Line Services onto a higher bit rate Private Line Service for more efficient facility capacity usage or vice versa.

## NA

Not available

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## N/C

No charge

## Nonrecurring Charges

Nonrecurring Charges are one-time charges.

## Payment Method

The manner which the Customer designates as the means of billing charges for Calls using the Company's Service.

## Physical Change

The modification of an existing Circuit, Dedicated Access line or port, at the request of the Customer, requiring some Physical Change or retermination.

## Point-of-Presence (POP)

A ETS-designated location where a facility is maintained for the purpose of providing access to its Service.

## Primary Route

The route which, in the absence of Customer-designated routing or temporary re-routing, would be used by ETS in the provision of Service.

## Private Line

A dedicated transmission channel furnished to a customer without intermediate switching arrangements for full-time customer use.

## Private Line Service

A dedicated full-time transmission Service utilizing dedicated access arrangements.

## Rate Center

A specified geographical location used for determining mileage measurements.

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## Requested Service Date

The Requested Service Date is the date requested by the Customer for commencement of Service and agreed to by ETS.

## 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.

## Route Diversity

Two channels which are furnished partially or entirely over two physically separate routes.

## Service

Service means any or all Service(s) provided pursuant to this Tariff.

## Service Commitment Period

The term elected by the Customer and stated on the Service order during which ETS will provide the Services subscribed to by the Customer. The term can be monthly or in the case of Private Line Services for a period of up to 5 years.

## Special Promotional Offerings

Special trial offerings, discounts, or modifications of its regular Service offerings which the Company may, from time to time, offer to its Customers for a particular Service. Such offerings may be limited to certain dates, times, and locations.

## Start of Service Date

The Requested Service Date or the date Service first is made available by ETS whichever is later.

## Tariff

The current Intrastate Services Tariff and effective revisions thereto filed by ETS with the Public Service Commission.

## Transmission Speed

Data transmission speed or rate, in bits per seconds (bps).

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## Twelve O'Clock

In designating time, 12:00 a.m. refers to 12:00 Midnight and 12:00 p.m. refers to 12:00 Noon.

## Two-Way Conversation

A Two-Way Conversation is a telephone conversation between or among two or more parties.

## VF

VF is voice frequency or voice-grade Service designed for private-line Service. Normal transmission is in the 300 hertz to 3000 hertz frequency band.

## ETS Recognized National Holidays

The following are ETS Recognized National Holidays determined at the location of the originator of the Call.

Holidays: In addition to Valentine's Day, the Company observes the following federally recognized holidays:

New Year's Day  
Martin Luther King Day  
President's Day  
Memorial Day  
July 4th, Independence Day  
Labor Day  
Columbus Day  
Veteran's Day  
Thanksgiving Day  
Christmas Day

The evening rate is used unless a lower rate would normally apply. When a Call begins in one rate period and ends in another, the rate in effect in each rate period applies to the portion of the Call occurring within that rate period. In the event that a minute is split between two rate periods, the rate in effect at the start of that minute applies.

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## II. RULES AND REGULATIONS

### 1. Description and Limitations of Services

- .01 Intrastate Telecommunications Service is the furnishing of ETS communication Services contained herein between specified locations under the terms of this Tariff.
- .02 Any member of the general public (including any natural person or legally organized entity such as a corporation, partnership, or governmental body) is entitled to obtain Service under this Tariff, provided that ETS reserves the right to deny Service: (A) to any Customer that, in ETS's reasonable opinion, presents an undue risk of nonpayment and refuses to comply with the deposit requirements set forth in Section II.7.03, (B) in circumstances in which as reason to believe that the use of the Service would violate the provisions of this Tariff or any applicable law or if any applicable law restricts or prohibits provision of the Service, or (C) if insufficient facilities are available to provide the Service (in such cases ETS shall take reasonable efforts to accommodate the needs of all potential Customers by means of facility improvements or purchases, of capacity, if such efforts will, in ETS's opinion, provide ETS with a reasonable return on its expenditures), but only for so long as such unavailability exists.
- .03 ETS, when acting at the Customer's request and as its authorized agent, will make reasonable efforts to arrange for Service requirements, such as special routing, Diversity, Alternate Access, or circuit conditioning.
- .04 Service is offered in equal access exchanges subject to the availability of facilities and the provisions of this Tariff. ETS reserves the right to refuse to provide Service to or from any location where the necessary facilities and/or equipment are not available.
- .05 Service may be discontinued upon written notice to the Customer if:
- the Customer is using the Service in violation of this Tariff; or
  - the Customer is using the Service in violation of the law or Commission regulation.

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- .06 Service begins on the date that billing becomes effective and is provided on the basis of a minimum period of at least one month, 24 hours per day. For the purposes of computing charges in this Tariff, a month is considered to have 30 days.
- .07 Service will be provided until canceled, by the Customer on not less than thirty (30) days' written notice from the date of postmark on the letter giving notice of cancellation.
- .08 Nothing herein, or in any other provision of this Tariff, or in any marketing materials issued by the Company shall give any person any ownership, interest, or proprietary right in any code or 800 number issued by the Company to its Customers.
- .09 The Company reserves the right to discontinue furnishing Services or billing options, upon written notice, when necessitated by conditions beyond its control. Conditions beyond the Company's control include, but are not limited to, a Customer's having Call volume or a calling pattern that results, or may result, in network blockage or other Service degradation which adversely affects Service to the calling party, the Customer, or other Customers of the Company.
- .10 Service may be discontinued by the Company, without notice to the Customer, by blocking traffic to or from certain cities, or NXX exchanges, or by blocking Calls using certain Customer authorization codes such as Calling Card codes, when the Company deems it necessary to take such action to prevent unlawful use of its Service. The Company will restore Service as soon as it can be provided without undue risk.
- .11 Except as otherwise provided in this Tariff or as specified in writing by the party entitled to receive Service, notices may be given orally or in writing to the persons whose names and business addresses appear on the executed Service order and the effective date of any notice shall be the date of delivery of such notice, not the date of mailing. By written notice, ETS or Customer may change the party to receive notice and/or the address to which such notice is to be delivered. In the event no Customer or ETS address is provided in the executed Service order, notice shall be given to the last known business address of Customer or, as appropriate.

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## 2. Other Terms and Conditions

- .01 The name(s) of the Customer(s) desiring to use the Service must be stipulated in the application for Service.
- .02 The Customer agrees to operate the Company provided equipment in accordance with instructions of the Company or the Company's agent. Failure to do so will void the Company liability for interruption of Service and may make Customer responsible for damage to equipment pursuant to Section II.2.03 below.
- .03 Customer agrees to return to the Company all Company-provided equipment delivered to Customer within five (5) days of termination of the Service in connection with which the equipment was used. Said equipment shall be in the same condition as when delivered to Customer, normal wear and tear only excepted. Customer shall reimburse the Company, upon demand, for any costs incurred by the Company due to Customer's failure to comply with this provision.
- .04 A Customer shall not use any service mark or trademark of the Company or refer to the Company in connection with any product, equipment, promotion, or publication of the Customer without prior written approval of the Company.
- .05 In the event suit is brought or an attorney is retained by the Company to enforce the terms of this Tariff, the Company shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith.
- .06 The provision of Service will not create a partnership or joint venture between the Company and the Customer nor result in joint Service offerings to their respective Customers.
- .07 The rate or volume discount level applicable to a Customer for a particular Service or Services shall be the rate or volume discount level in effect at the beginning of the monthly billing period applicable to the Customer for the particular Service or Services. When a Service is subject to a minimum monthly charge, account charge, port charge or other recurring charge or Nonrecurring Charge for both intrastate and interstate Service, only one such charge shall apply per account and that charge shall be the interstate charge.

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event that Service was provided for less than a month, monthly recurring charges will be pro-rated.

- .08 Service requested by Customer and to be provided pursuant to this Tariff shall be requested on ETS Service Order forms in effect from time to time or Customer's forms accepted in writing by an authorized headquarters representative of ETS (collectively referred to as "Service Orders").
- .09 If an entity other than the Company (e.g., another carrier or a supplier) imposes charges on the Company in connection with a Service that entity's charges will be passed through to the Customer also.
- .10 The Service Commitment Period for any Service shall be established by the Service Order relevant thereto and commence on the Start of Service Date. Upon expiration, each Service Commitment Period for such Service shall automatically be extended subject to written notice of termination by either ETS or Customer as of a date not less than thirty (30) days after delivery of said notice to the other. The charges for Interexchange Service during any such extension shall not exceed the then current ETS month-to-month charges applicable to such Service.

### 3. Liability

- .01 Except as provided otherwise in this Tariff, the Company shall not be liable to Customer or any other person, firm or entity for any failure of performance hereunder if such failure is due to any cause or causes beyond the reasonable control of the Company. Such causes shall include, without limitation, acts of God, fire, explosion, vandalism, cable cut, storm or other similar occurrence, any law, order, regulation, direction, action or request of the United States government or of any other government or of any civil or military authority, national emergencies, insurrections, riots, wars, strikes, lockouts or work stoppages or other labor difficulties, supplier failures, shortages, breaches or delays, or preemption of existing Services to restore service in compliance with Part 64, Subpart D, Appendix A, of the FCC's Rules and Regulations.
- .02 With respect to the Services contained herein and except as otherwise provided herein, the Company's liability shall not exceed an amount equal to the charge applicable to a one minute Call to the Commission

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Station at the time the affected Call was made. If the initial minute rate is higher than the additional minute rate, the higher rate shall apply. For those Services with monthly recurring charges, the Company's liability is limited to an amount equal to the proportionate monthly recurring charges for the period during which Service was affected.

- .03 The Company is not liable for any act or omission of any other company or companies (including any Company affiliate that is a participating or concurring carrier) furnishing a portion of the Service or facilities, equipment, or Services associated with such Service.
- .04 The Customer is responsible for taking all necessary legal steps for interconnecting the Customer provided terminal equipment with the Company facilities. The Customer shall ensure that the signals emitted into the Company's network do not damage Company equipment, injure personnel or degrade Service to other Customers. The Customer is responsible for securing all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection. In addition, the customer shall comply with applicable LEC signal power limitations.
- .05 The Company may rely on Local Exchange Carriers or other third parties for the performance of other Services such as Local Access. Upon Customer request and execution and delivery of appropriate authorizing documents, the Company may act as agent for Customer in obtaining such other Services. Customer's liability for charges hereunder shall not be reduced by untimely Installation or non-operation of Customer provided facilities and equipment.
- .06 The failure to give notice of default, to enforce or insist upon compliance with any of the terms or conditions herein, the waiver of any term or conditions herein, or the granting of an extension of time for performance by the Company or the Customer shall not constitute the permanent waiver of any term or condition herein. Each of the provisions shall remain at all time in full force and effect until modified in writing.
- .07 The Company shall not be liable to the Customer or any other person, firm or entity in any respect whatsoever as a result of mistakes, accidents, errors, omissions, interruptions, delays, or defects in Service (collectively "Defects"). Defects caused by or

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to, directly or indirectly, by act or omission of Customer or its customers, affiliates, agents, representatives, invitees, licensees, successors or assigns or which arise from or are caused by the use of facilities or equipment of Customer or related parties shall not result in the imposition of any liability whatsoever upon the Company, and Customer shall pay to the Company any reasonable costs, expenses, damages, fees or penalties incurred by the Company as a result thereof, including costs of Local Access Providers' labor and materials. In addition, all or a portion of the Service may be provided over facilities of third parties, and the Company shall not be liable to Customer or any other person, firm or entity in any respect whatsoever arising out of Defects caused by such third parties. THE COMPANY SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, ACTUAL, PUNITIVE OR ANY OTHER DAMAGES, OR BUSINESS INTERRUPTION, FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER ARISING OUT OF ANY DEFECTS OR ANY OTHER CAUSE. THE COMPANY'S LIABILITY, IF ANY, WITH REGARD TO THE DELAYED INSTALLATION OF THE COMPANY'S FACILITIES OR COMMENCEMENT OF SERVICE SHALL NOT EXCEED \$1,000. THIS WARRANTY AND THESE REMEDIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OR REMEDIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN THE EVENT OF AN INTERRUPTION IN SERVICE OR ANY DEFECT IN THE SERVICE WHATSOEVER, NEITHER ETS NOR ANY AFFILIATED OR UNAFFILIATED THIRD PARTY PROVIDER OR OPERATOR OF FACILITIES EMPLOYED IN THE PROVISION OF THE SERVICE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, ACTUAL, PUNITIVE OR ANY OTHER DAMAGES, OR FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER.

- .08 With respect to the routing of Calls by ETS to public safety answering points or municipal Emergency Service providers, ETS liability, if any, will be limited to the lesser of: (a) the actual monetary damages incurred and proved by the Customer as the direct result of ETS's action, or failure to act, in routing the Call, or (b) the sum of \$1,000.00
- .09 In the event parties other-than Customer (e.g., Customer's customers) shall have use of the Service directly or indirectly through Customer, then Customer agrees to forever indemnify and hold ETS and any affiliated or unaffiliated third-party provider or operator of facilities employed in provision of the Service harmless from and against any and all claims, demands, suits, actions, losses, damages,

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assessments or payments which may be asserted by said parties arising out of or relating to any Defects.

- .10 In the event that ETS is required to perform a Circuit redesign due to inaccurate information provided by the Customer; or, circumstances in which such costs and expenses are caused by the Customer or reasonably incurred by ETS for the benefit of the customer, the Customer is responsible for the payment of all such charges.

#### 4. Cancellation of Service by a Customer

- .01 If a Customer cancels a Service order before the Service begins, before completion of the minimum period, or before completion of some other period mutually agreed upon by the Customer and the Company, a charge will be levied upon the Customer for the nonrecoverable portions of expenditures or liabilities incurred expressly on behalf of the Customer by the Company and not fully reimbursed by Installation and monthly charges. If, based on a Service order by a Customer, any construction has either begun or been completed, but no Services provided, the nonrecoverable costs of such construction shall be borne by the Customer.
- .02 Upon thirty (30) days' prior written notice, either Customer or ETS shall have the right, without cancellation charge or other liability, to cancel the affected portion of the Service, if ETS is prohibited by governmental authority from furnishing said portion, or if any material rate or term contained herein and relevant to the affected Service is substantially changed by order of the highest court of competent jurisdiction to which the matter is appeal, the Federal Communications Commission, or other local, state or federal government authority.

#### 5. Cancellation for Cause by the Company

- .01 Upon nonpayment of any sum owing to the Company, or upon a violation of any of the provisions governing the furnishing of Service under this Tariff, the Company may, upon written notification to the Customer, without incurring any liability, immediately discontinue the furnishing of such Service. Customer shall be deemed to have canceled Service as of the date of such disconnection and shall be liable for any cancellation charges set forth in this Tariff.

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- .02 Without incurring any liability, the Company may discontinue the furnishing of Service(s) to a Customer immediately and without notice if the Company deems that such action is necessary to prevent or to protect against fraud or to otherwise protect its personnel, agents, facilities or Services under the following circumstances:
- a. if the Customer refuses to furnish information to the Company regarding the Customer's credit-worthiness, its past or current use of common carrier communications Services or its planned use of Service(s);
  - b. if the Customer provides false information to the Company regarding the Customer's identity, address, credit-worthiness, past or current use of Customer communications Services, or its planned use of the Company Service(e);
  - c. if the Customer states that it will not comply with a request of the Company for reasonable security for the payment for Service(B);
  - d. if the Customer has been given written notice by the Company of any past due amount (which remains unpaid in whole or in part) for any of the Company's communications Services to which the Customer either subscribes or had subscribed or used;
  - e. immediately upon written notice to the Customer of any sum thirty (30) days past due;
- .03 The discontinuance of Service(s) by the Company pursuant to this Section does not relieve the Customer of any obligations to pay the Company for charges due and owing for Service(s) furnished up to the time of discontinuance. The remedies set forth herein shall not be exclusive and the Company shall at all times be entitled to all rights available to it under either law or equity.

## 6. Use of Service

- .01 The Services offered herein may be used for any lawful purpose, including residential, business, governmental, or other use. There are no restrictions on sharing or resale of Services. However, the Customer remains liable for all obligations under this Tariff notwithstanding such sharing or resale and regardless of the company's

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knowledge of same. The Company shall have no liability to any person or entity other than the Customer and only as set forth in Section II.3. The Customer shall not use nor permit others to use the Service in a manner that could interfere with Services provided to others or that could harm the facilities of the Company or others.

- .02 Service furnished by the Company may be arranged for joint use or authorized use. The joint user or authorized user shall be permitted to use such Service in the same manner as the Customer, but subject to the following:
- a. One joint user or authorized user must be designated as the Customer.
  - b. All charges for the Service will be computed as if the Service were to be billed to one Customer. The joint user or authorized user which has been designated as the Customer will be billed for all components of the Service and will be responsible for all payments to the Company. In the event that the designated Customer fails to pay the Company, each joint user or authorized user shall be liable to the Company for all charges incurred as a result of its use of the Company's Service.
- .03 In addition to the other provisions in this Tariff, Customers reselling Company Services shall be responsible for all interaction and interface with their own subscribers or customers. The provision of the Service will not create a partnership or joint venture between ETS and Customer nor result in a joint communications Service offering to the Customers of either ETS or the Customer.
- .04 Service furnished by the Company shall not be used for any unlawful or fraudulent purposes.
- .05 The Customer will be billed directly by the LEC for certain Dedicated Access arrangements selected by the Customer for the provisioning of direct access arrangements. In those instances where the Company at the Customer's request may act as agent in the ordering of such arrangements, the Company will bill the Customer Local Access charges.

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## 7. Payment Arrangements

- .01 The Customer is responsible for payment of all charges for Services furnished to the Customer or its joint or authorized users. This responsibility is not changed due to any use, misuse, or abuse of the Customer's Service or Customer provided equipment by third parties, the Customer's employees, or the public.
- .02 The Company's bills are due upon receipt. Amounts not paid within 30 days from the Due Date of the invoice will be considered past due. Customers will be assessed a late fee on past due amounts in the amount of the lesser of one and one-half percent (1 1/2%) per month or the maximum lawful rate under applicable state law. If a Customer presents an undue risk of nonpayment at any time, the Company may require that Customer to pay its bills within a specified number of days and to make such payments in cash or the equivalent of cash.
- .03 In determining whether a Customer presents an undue risk of nonpayment, the Company shall consider the following factors: (A) the Customer's payment history (if any) with the Company and its affiliates, (B) Customer's ability to demonstrate adequate ability to pay for the Service, (C) credit and related information provided by Customer, lawfully obtained from third parties or publicly available, and (D) information relating to Customer's management, owners and affiliates (if any). Customers who present such an undue risk may be required at any time to provide the Company a security deposit, in cash or the equivalent of cash, up to an amount equal to the applicable Installation charges, if any, and/or up to two months' actual or estimated usage charges for the Service to be provided. Such applicants or Customers may also be required, at any time, whether before or after the commencement of Service, to provide such other assurances of, or security for, the payment of the Company's charges for its Services as the Company may deem necessary, including, without limitation, advance payments for Service, third party guarantees of payment, pledges or other grants of security interests in the Customers' assets, and similar arrangements. The required deposit or other security may be increased or decreased by the Company as it deems appropriate in the light of changing conditions. In addition, the Company shall be entitled to require such an applicant or Customer to pay all its bills within a specified period of time, and to make such payments in cash or the equivalent of cash. In case of a cash deposit, simple interest at the rate of 5% per annum shall

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be credited or paid to the Customer while the deposit is held by the Company. At the Company's option, such deposit may be refunded to the Customer's account at any time.

- .04 Disputes with respect to charges must be presented to the Company in writing within six months from the date the invoice is rendered or such invoice will be deemed to be correct and binding on the Customer.
- .05 If a LEC has established or establishes a Special Access surcharge, the Company will bill the surcharge beginning on the effective date of such surcharge for Special Access arrangements presently in Service. The Company will cease billing the Special Access surcharge upon receipt of an Exemption Certificate or if the surcharge is removed by the LEC.
- .06 In the event the Company incurs fees or expenses, including attorney's fees, in collecting, or attempting to collect, any charges owed the Company, the Customer will be liable to the Company for the payment of all such fees and expenses reasonably incurred.

## 8. Assignment

The obligations set forth in this Tariff shall be binding upon and inure to the benefit of the parties hereto and their respective successors or assigns, provided, however, that the Customer shall not assign or transfer its rights or obligations without the prior written consent of the company.

## 9. Tax Adjustments

- .01 All stated charges in this tariff are computed by the Company exclusive of any federal, state, or local use, excise, gross receipts, sales or privilege taxes, duties, fees, or similar liabilities (other than general income or property taxes) whether charged to or against the Company or its Customer. Such taxes, fees, etc. shall be paid by the Customer in addition to the charges stated in this Tariff. All such taxes, duties, and fees shall each be shown as a separate line item on the Customer's monthly invoice.
- .02 A surcharge is imposed on all charges for Service originating at addresses in states which levy a gross receipts tax on Service operations. This surcharge is composed of a factor of **PUBLIC SERVICE COMMISSION OF KENTUCKY** **EFFECTIVE**

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receipts tax and taxes imposed directly or indirectly upon ETS as measured by the gross receipts payments or revenues of interstate access charge will be shown as a separate line item on the Customer's monthly invoice.

## 10. Method for Calculation of Airline Mileage

The airline mileage between two cities can be calculated using the Vertical (V) and Horizontal (H) coordinates of the serving wire centers associated with the Company's POP locations. The method for calculating the airline mileage is obtained by reference to AT&T's Tariff F.C.C. No. 10 according to the following formula:

$$\sqrt{\frac{(V1-V2)^2+(H1-H2)^2}{10}}$$

where V1 and H1 correspond to the V&H coordinates of City 1 and V2 and H2 correspond to the V&H coordinates of City 2.

Example:

	<u>V</u>	<u>H</u>
City 1	5004	1406
City 2	5987	3424

$$\sqrt{\frac{(504-5987)^2+(1406-3424)^2}{10}}$$

The result is 709.83 miles. Any fractional miles are rounded to the next higher whole number; therefore, the airline mileage for this example is 710 miles.

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## 11. Time of Day Rate Periods

Time of Day Rate Periods are determined by the time of day at the location of the Calling station.

The rates shown in Section III.1 apply as follows:

DAY: From 8:00 AM to 5:00 PM Monday - Friday

EVENING: From 5:00 PM to 11:00 PM Monday - Friday  
and Sunday

NIGHT/

WEEKEND: From 11:00 PM to 8:00 AM Everyday  
From 8:00 AM to 11:00 PM Saturday  
From 8:00 AM to 5:00 PM Sunday

## 12. Special Customer Arrangements

In cases where a customer requests a special or unique arrangement which may include engineering, conditioning, Installation, construction, facilities, assembly, purchase or lease of facilities and/or other special Services not offered under this Tariff, the Company, at this option, may provide the requested Services. Appropriate recurring charges and/or Nonrecurring Charges and other terms and conditions will be developed for the Customer for the provisioning of such arrangements.

## 13. Inspection

The Company may, upon notice, make such tests and inspections as may be necessary to determine that the requirements of this Tariff are being complied with in the Installation, operation or maintenance of Customer or the Company equipment. The Company may interrupt the Service at any time, without penalty to the Company, because of departure from any of these requirements.

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## 14. Testing and Adjustment

Upon reasonable notice, the Channels provided by the Company shall be made available to the Company for such tests and adjustments as may be necessary to maintain them in satisfactory condition; no interruption allowance will be granted for the time during which such tests and adjustments are made.

## 15. Interconnection with Other Carriers

01. Service furnished by the Company may be connected with Services or facilities of another carrier. Such interconnection may be made at the Company POP or entrance site, at a POP of another carrier, or at the Customer Premises, joint user, or authorized user. Service furnished by the Company is not part of a joint undertaking with such other carriers.

02. Any special interface equipment or facilities necessary to achieve compatibility between the facilities of the Company and other participating carriers shall be provided at the Customer's expense. Upon the Customer's request and acting as its authorized agent, the Company will attempt to make the necessary arrangements for such interconnection.

## 16. Customer Provided Equipment

Customer Premises Circuit terminating equipment such as Channel Service units (CSU's) and Multiplexing equipment and any other terminal equipment such as telephone sets or systems shall be provided by the Customer and furnished and maintained at the Customer's expense, except as expressly provided otherwise in writing.

## 17. Restoration of Service

The use and restoration of Service in emergencies shall be in accordance with Part 64, Subpart D of the Federal Communications Commission's Rules and Regulations to the extent it is applicable, which specifies the priority system for such activities.

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## III. WIDE AREA TELECOMMUNICATIONS SERVICE (WATS)

1. WATS is a high volume, bulk rate long distance service utilizing switched or dedicated access arrangements between the Customers Premises and ETS' facilities for call origination. Call termination is completed through a combination of ETS facilities and LEC switched access arrangements. Duration of WATS calls are expressed in 6-second increments and subject to a minimum connect time of 18-seconds, and billed in 6-second increments thereafter. All Calls are rounded to the next highest 6-seconds period.

2. DS-0 (Digital Signal Level 0) Service

DS-0 Service is a 64 Kbps dedicated digital Interexchange Channel Service. With analog Voice Frequency (VF) Local Access facilities, DS-0 Service will support the transmission of analog voice and/or data within the frequency range of 300 - 3000 Hz.

3. DS-1 (Digital Signal Level 1) Service

DS-1 Service is a high capacity point-to-point Private Line Service designed for the simultaneous full-duplex transmission of digital signals at a nominal speed of 1.544 Mbps.

4. USAGE RATES

The following are the maximum per minute usage charges which apply to all calls. These charges are in addition to the Non-recurring Charges and Recurring Charges referred to in Sections III.5 and III.6 hereafter.

.01 Switched Inbound Usage Rates

RATE PER HOUR

\$17.10

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.02 Dedicated Inbound Usage Rates

BUSINESS DAY

RATE PER HOUR

\$11.90

EVENING

RATE PER HOUR

\$10.65

NIGHT

RATE PER HOUR

\$10.00

.03 Switched Outbound Usage Rates

BUSINESS DAY

Initial 18 Seconds

0.0495

Additional 6 Seconds

0.0165

EVENING/NIGHT/WEEKEND

Initial 18 Seconds

0.0444

Additional 6 Seconds

0.0148

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## .04 Dedicated Outbound Usage Rates

### BUSINESS DAY

<u>Mileage</u>	<u>Initial 18 Seconds</u>	<u>Additional 6 Seconds</u>
0-292	0.0390	0.0130
293-43	0.0438	0.0146

### EVENING/NIGHT/WEEKEND

<u>Mileage</u>	<u>Initial 18 Seconds</u>	<u>Additional 6 Seconds</u>
0-292	0.0294	0.0098
293-430	0.0330	0.0110

## 5. Nonrecurring Charges

The following one-time Non-recurring installation charges apply to all WATS offerings. These charges are billed to the Customer the month following the work performed.

<u>Service/Access Arrangement</u>	<u>Charge</u>
Switched Services (Inbound & Outbound)	\$200 per location
Single Dedicated Inbound or Outbound T-1	\$480 T-1
Single Charge Per Port Inbound or Outbound	\$20 per port or channel or \$480 per T-1
Split Port Charge	\$35 per port-sharing Inbound or Outbound on same T-1 or \$840 for all 24 ports or channels

## 6. Recurring Charges

The following monthly Recurring charges for service apply as indicated. These charges are in addition to any usage charges.

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per minute) and Non-Recurring Charges or the Service. The charges are charged to the Customer one month in advance.

<u>Service/Access Arrangement</u>	<u>Charge</u>
Switched Services	\$20 per month per location regardless of the number of lines
Single dedicated Inbound or Outbound line	\$5 per month per port or channel or \$120 per month per T-1

#### IV. SPECIAL PROMOTIONAL OFFERING

The company may from time to time engage in Special Promotional Offerings or Trial Service Offerings limited to certain dates, times or locations designed to attract new subscribers or increase subscriber usage. In all such cases, the rates charged will not exceed those specified in Section III hereof.

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

Issued: August 21, 1992

Effective August 21, 1992  
AUG 21 1992

Issued by: Frank G. Scardino  
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PURSUANT TO 807 KAR 5:011.  
SECTION 9 (1)  
BY: *[Signature]*  
PUBLIC SERVICE COMMISSION MANAGER