

**ISSUED: DECEMBER 27, 2004**

**EFFECTIVE: JANUARY 1, 2005**

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## **RULES AND REGULATIONS**

### **2.1 UNDERTAKING OF THE COMPANY**

#### **2.1.1 GENERAL**

The Company provides the services offered in this Price List under the terms, conditions, rates and charges specified herein.

Residence Local Service, hereinafter referred to as Service, consists of furnishing two-way communication to or from the Customer's premises and another point within a Local Calling Area as specified in Section 3 of this Price List.

The Company will provide all services, features and functions where facilities, billing capability, and technical capability exist or become available without unreasonable expense to the Company, as determined in the Company's sole discretion, consistent with existing PSC regulations, unless otherwise waived.

Except as may otherwise be specified in this Price List, service is provided on the basis of a minimum period of at least one month, 24-hours per day, seven days a week. For the purpose of computing charges in this Price List, a month is considered to have 30 days.

#### **2.1.2 TERMS AND CONDITIONS**

Customers may be required to sign written service orders that may contain or reference a specific description of the service ordered, the rates to be charged, and the terms and conditions in this Price List. The Customer may also be required to execute any other documents as may reasonably be requested by the Company in connection with the provisioning of Local Service.

The services will be provided on a month-to-month basis at the then current month to month rates unless terminated by either party. Any termination shall not relieve the Customer of its obligation to pay any charges incurred under the service orders, if any, and this Price List prior to termination. The Customer's rights and obligations incurred under this Price List, which by their nature extend beyond termination of service, shall survive such termination.

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**RULES AND REGULATIONS**

**2.1 UNDERTAKING OF THE COMPANY (CONT'D)**

**2.1.3 NOTIFICATION OF SERVICE-AFFECTING ACTIVITIES**

The Company will provide the Customer reasonable notification of service-affecting activities that may occur in normal operation of the Company's business. Such activities may include, but are not limited to, equipment or facilities additions, removals or rearrangements and routine preventative maintenance. Generally, such activities are not specific to an individual Customer, but affect many Customers' services. No specific advance notification period is applicable to any service activities. With some emergency or unplanned service-affecting conditions, such as an outage resulting from cable damage, notification to the Customer may not be possible.

**2.1.4 PROVISION OF EQUIPMENT AND FACILITIES**

- A. The Company shall use reasonable efforts to make services available to a Customer on or before a particular date, subject to the provisions of and compliance by the Customer with the obligations contained in this Price List.
- B. The Company shall use reasonable efforts to maintain facilities and equipment that it furnishes to the Customer. The Customer may not, nor may the Customer permit others to rearrange, disconnect, remove, attempt to repair or otherwise interfere with any of the facilities or equipment provided or installed by the Company, except upon the written consent of the Company.
- C. The Company may substitute, change or rearrange any equipment or facility at any time and from time to time, but shall not thereby materially alter the parameters of the service provided to the Customer.

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**RULES AND REGULATIONS**

**2.1 UNDERTAKING OF THE COMPANY**

**2.1.4 PROVISION OF EQUIPMENT AND FACILITIES (CONT'D)**

- D. Equipment the Company provides or installs at the Customer premises for use in connection with services the Company offers shall not be used for any purpose other than that for which the Company provides, installs or has installed on its behalf.
- E. The Company is not responsible for the installation, operation or maintenance of any Customer-provided communications equipment. Where such equipment is connected to the facilities furnished pursuant to this Price List, the responsibility of the Company is limited to the furnishing of facilities offered under this Price List and to the maintenance and operation of such facilities.
- F. When the facilities or equipment of other companies are used by the Customer, the Company is not liable for any act, error, omission or interruption caused by the other company or their agents or employees.
- G. The Customer shall be responsible for the payment of service charges, as specified herein, for visits by the Company's agents or employees to the premises of the Customer when a service difficulty or trouble report results from the use of equipment or facilities provided by any party other than the Company.
- H. Equipment that the Company provides or installs at a customer premises for use in connection with the telephone services shall remain the property of the Company. If the Customer cancels service or the Company lawfully terminates, discontinues, suspends or refuses to continue providing service to the Customer, the Company has the right to recover this equipment. The Company shall contact the Customer for permission to enter the Customer's premises to remove this equipment and the Customer shall not unreasonably refuse such entry. If the Customer refuses to allow removal of this equipment, the Customer shall be liable to the Company for the actual cost of the equipment plus administrative costs and attorney's fees. These fees may be added to the Customer's telephone bill and the Customer agrees to pay these fees. The Customer shall assume responsibility for any and all such unrecovered equipment.
- I. The Company is not obligated to provide service to a household under any name if an outstanding bill exists at the address and the person responsible for that bill still resides at the address.

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**RULES AND REGULATIONS**

**2.1 UNDERTAKING OF THE COMPANY**

**2.1.5 CUSTOMER EQUIPMENT**

A Customer may transmit or receive information or signals via the facilities of the Company by use of Customer-provided equipment.

**A. Station Equipment**

Customer-provided terminal equipment on the Customer premises, and the electric power consumed by such equipment, shall be provided by and maintained at the expense of the Customer. Additionally, the Company-provided equipment shall be maintained by the Customer, and the electric power consumed by such equipment, shall be at the expense of the Customer.

The Customer is responsible for ensuring that Customer-provided equipment connected to Company equipment and facilities is compatible with Company equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation or maintenance of such equipment and wiring must be such as not to cause damage to the Company-provided equipment and wiring or injury to the Company's employees or other persons. If the Company, in its sole discretion, reasonably determines that additional protective equipment is required to prevent such damage or injury, it shall be provided at the Customer's expense.

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**RULES AND REGULATIONS**

**2.1 UNDERTAKING OF THE COMPANY**

**2.1.5 CUSTOMER EQUIPMENT (CONT'D)**

**B. Inspections**

Upon reasonable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer is complying with the requirements specified in this Price List.

If the Customer fails to comply with the protective requirements described in A., above, the Company may take such action as it deems necessary to protect its facilities, equipment and personnel. The Company may immediately, and without notice, deny service when the Customer:

1. subjects Company or non-Company personnel to hazardous conditions
2. circumvents the Company's ability to charge for its services, prevent and protect against fraud, or
3. acts in a way that may cause immediate harm to the local network or other Company services.

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**RULES AND REGULATIONS**

**2.1 UNDERTAKING OF THE COMPANY (CONT'D)**

**2.1.6 ABUSE AND FRAUDULENT USE**

Service is furnished subject to the condition that there will be no abuse or fraudulent use of the service. The Company may, immediately and upon written notice to the Customer, discontinue or suspend, or refuse to furnish any and/or all service(s) without incurring any liability if the Company deems that such action is necessary to prevent or to protect against abuse or fraud or to otherwise protect its personnel, agents, facilities, assets, or services.

Except for willful misconduct, the discontinuance or suspension of service by the Company does not relieve the Customer of any obligation to pay the Company for charges due and owed for service furnished up to the time of discontinuance or suspension.

**A. Abuse**

The abuse of Service is prohibited. The following activities constitute abuse:

1. Using Service to make calls which might reasonably be expected to frighten, abuse, torment, or harass another, or
2. Using Service in such a way that it interferes unreasonably with the use of the service by others.

**B. Fraudulent Use**

The fraudulent use of, or the intended or attempted fraudulent use of, the Service is prohibited. The following activities constitute fraudulent use:

1. Rearranging, tampering with, or making connections not authorized by this Price List to any service components used to furnish local service, or
2. Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false representation, false credit devices, or electronic devices.

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**RULES AND REGULATIONS**

**2.1 UNDERTAKING OF THE COMPANY**

**2.1.6 ABUSE AND FRAUDULENT USE**

**B. Fraudulent Use (Cont'd)**

3. Using service with the intent of gaining access to another Customer's outbound calling capabilities on an unauthorized basis.
4. Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false representation, false credit devices or electronic devices to defraud or mislead callers.
5. Refusing to provide, or providing false information to the Company regarding the Customer's identity, address, credit worthiness, current or past use of Telecommunications Services or its planned use of the Company's service.
6. Refusing to provide payment, or security for the payment for service(s), advance payments or deposits as specified in this Price List.

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**RULES AND REGULATIONS**

**2.2 LIABILITY OF THE COMPANY**

**2.2.1 SERVICE LIABILITY**

The Company's liability, if any, for its willful misconduct is not limited by this Price List. With respect to any other claim or suit by a Customer or by any others, for direct or consequential damages associated with the installation, provision, billing and collection, termination, maintenance, repair or restoration of a service, and subject to the provisions following, the Company's liability, if any, shall not exceed an amount equal to the proportionate charge for the service for the period during which the service was affected. This liability for damages shall be in addition to any amounts that may otherwise be due the Customer under this Price List as a Credit Allowance for Interruptions and Service Quality Guarantees.

The Company is not liable for any act or omission of any other communications carrier or other service providers that furnishes a portion of a service.

The Company is not liable for damages associated with any service that it does not furnish.

The Company is not liable for damages to a premises resulting from the furnishing of service, including the installation and removal of equipment or facilities and associated wiring, unless the damage is caused solely by the Company's negligence.

The Company shall be indemnified, defended and held harmless by the Customer against any claim, loss or damage arising from the use of service offered under this Price List, involving:

1. Claims for libel, slander, invasion of privacy, or infringement of copyright arising from any communication;
2. Claims for patent infringement arising from the Customer or authorized user combining or using the service furnished by the Company in connection with facilities or equipment furnished by others; or
3. All other claims arising out of any act or omission of others in the course of using services provided pursuant to this Price List.



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**RULES AND REGULATIONS**

**2.2 LIABILITY OF THE COMPANY**  
**2.2.1 SERVICE LIABILITY (CONT'D)**

The Company's facilities are not suitable for use in the provision of dedicated alarm or emergency services.

Company does not guarantee or make any warranty with respect to its services when used in an explosive atmosphere. The Customer shall indemnify, defend and hold harmless the Company from any and all claims by any person relating to the services so provided.

No license under patents or copyright (other than the limited license to use) is granted by the Company or shall be implied or arise by estoppel, with respect to any service offered under this Price List. The Company will defend the Customer and authorized user against claims of patent infringement arising solely from the use by the Customer or authorized user of services offered under this Price List and will indemnify such Customer or authorized user for any damages awarded based solely on such claims.

The Company's failure to provide or maintain services under this Price List shall be excused by facility availability, governmental orders, civil commotions, labor difficulties, preemption of existing services to restore services in compliance with Part 64, Subpart D, Appendix A, of the F.C.C. Rules and Regulations, acts of God, and other circumstances beyond the Company's control.

**2.2.2 TEMPORARY SUSPENSION FOR REPAIRS**

The Company shall have the right to make necessary repairs or changes in its facilities at any time and will have the right to suspend or interrupt service temporarily for the purpose of making the necessary repairs or changes in its system. When such suspension or interruption of service for any appreciable period occurs, the Company will provide the affected Customers with reasonable notice thereof, as circumstances permit. If practicable, the Company will perform the work at times that will cause the Customer the least inconvenience. When the Company is repairing or changing its facilities, it shall take appropriate precautions to avoid unnecessary interruptions of communications or Customer's service.

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**RULES AND REGULATIONS**

**2.2 LIABILITY OF THE COMPANY (CONT'D)**

**2.2.3 CREDIT ALLOWANCE FOR INTERRUPTIONS**

Except as may otherwise be specified in this Price List, interruptions of twenty-four hours or more, which are reported to or detected by the Company, and that are not due to the negligence or willful act of the Customer are credited to the Customer at the proportionate monthly charge (1/30 of the service monthly recurring charge) involved for each twenty-four hours or fraction thereof of interruption. This credit is subject to the Customer notifying the Company of the service interruption.

No interruption allowance shall be made for failures in facilities provided by any other person or entity except as may otherwise be provided in other Sections of this Price List.

No interruption allowance shall apply where service is interrupted by the negligence or willful act of the subscriber or where the Company, pursuant to the terms of the Price List, suspends or terminates service because of nonpayment of bills due to the Company, unlawful or improper use of the facilities or service, or any other reason covered by the Price List. No allowance shall be made for interruptions due to electric power failure where, by the provisions of this Price List, the subscriber is responsible for providing electric power.

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**RULES AND REGULATIONS**

**2.3 OBLIGATIONS OF THE CUSTOMER**

**2.3.1 THE CUSTOMER SHALL BE RESPONSIBLE FOR:**

- A. The payment of all applicable charges pursuant to this Price List, including visits by the Company's agents or employees to the premises of the Customer when the service difficulty or trouble report results from the use of equipment or facilities provided by any party other than the Company, including but not limited to the Customer;
- B. Damage to or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer or the noncompliance by the Customer with these regulations, or by fire or theft or other casualty on the Customer premises, unless caused by the negligence or willful misconduct of the employees or agents of the Company;
- C. Providing at no charge, as specified from time to time by the Company, any needed personnel, equipment, space and power to operate Company facilities and equipment installed on the premises of the Customer, and the level of heating and air conditioning necessary to maintain the proper operating environment on such premises;
- D. Obtaining, maintaining, and otherwise having full responsibility for all easements necessary for installation of any associated equipment or facilities used to provide Local Services to the Customer from the property line to the location of the equipment installed on the Customer's premises. Any costs associated with obtaining and maintaining the easements described herein, including the costs of altering the structure to permit installation of the Company-provided equipment or facilities, shall be borne entirely by, and may be charged by the Company, to the Customer;
- E. Providing a safe place to work and complying with all laws and regulations regarding the working conditions on the premises at which Company employees, agents and/or suppliers shall be installing or maintaining the Company's facilities and equipment. The Company reserves the right to refuse to install its equipment in a hazardous area. The Customer shall be responsible for identifying, monitoring, removing and disposing of any hazardous material (e.g. asbestos) prior to any construction or installation work;

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**RULES AND REGULATIONS**

**2.3 OBLIGATIONS OF THE CUSTOMER**

**2.3.1 THE CUSTOMER SHALL BE RESPONSIBLE FOR (CONT'D):**

- F. Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to the location of Company facilities and equipment in any Customer premises or the easements for which the Customer is responsible under this section; and granting or obtaining permission for Company agents or employees to enter the premises of the Customer for the purpose of installing, inspecting, maintaining, repairing, or upon termination of service as stated herein, removing the facilities or equipment of the Company; and
- G. Not creating or allowing to be placed any liens or other encumbrances on the Company's equipment or facilities.

**2.3.2 CLAIMS**

With respect to any service or facility provided by the Company, the Customer shall indemnify, defend and hold harmless the Company from and against all claims, actions, damages, liabilities, costs and expenses, including reasonable attorney's fees for:

- A. Any loss, destruction or damage to property of the Company or any third party, or the death or injury to persons, including, but not limited to, employees or invitees of either party, to the extent caused by or resulting from the negligent or intentional act or omission of the Customer, its employees, agents, representatives or invitees; or
- B. Any claim, loss, damage, expense or liability for infringement of any copyright, patent, trade secret, or any proprietary or intellectual property right of any third party, arising from any act or omission by the Customer, including, without limitation, use of the Company's services and facilities in a manner not contemplated by the agreement between the Customer and the Company.

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**RULES AND REGULATIONS**

**2.4 CONNECTIONS OF TERMINAL EQUIPMENT, COMMUNICATIONS SYSTEMS**

**2.4.1 RECORDING OF TWO WAY TELEPHONE CONVERSATIONS**

Telecommunications services are not represented as adapted to the recording of two way telephone conversations. However, Customer-provided voice recording equipment may be directly, acoustically or inductively connected with telecommunications services for the recording of such conversations. When such connections are made, the Customer-provided voice recording equipment shall be so arranged that at the will of the user it can be activated or deactivated. In addition, one of the following conditions must apply:

- A. All parties to the telephone conversation must give their prior consent to the recording of the conversation, and their prior consent must be obtained in writing or be part of, and obtained at the start of, the recording, or
- B. A distinctive recorder tone, repeated at intervals of approximately fifteen seconds, is required to alert all parties when the recording equipment is in use. The distinctive recording tone can be provided as part of the recording equipment, or
- C. All parties to the telephone conversation must be verbally notified at the beginning of the conversation and the notification must be recorded as part of the call, by the recording party.

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**RULES AND REGULATIONS**

**2.4 CONNECTIONS OF TERMINAL EQUIPMENT, COMMUNICATIONS SYSTEMS**

**2.4.1 RECORDING OF TWO WAY TELEPHONE CONVERSATIONS (CONT'D)**

D. Exceptions

The exceptions to the foregoing requirements are as follows:

1. Recordings made of incoming calls to telephone numbers publicized for emergencies involving health or safety of life and property (e.g., emergency situations involving fire, health care, police, public utilities and emergency road service) and outgoing calls made in immediate response to such calls.
2. Recordings of calls made for patently unlawful purposes, such as bomb threats, kidnap ransom requests and obscene telephone calls. Outgoing calls made in immediate response to such calls are also excepted.
3. Recording of calls made by Federal, State or local law enforcement authorities, or federal intelligence authorities, acting under cover of law.

**2.4.2 VIOLATION OF REGULATIONS**

When any terminal equipment or communications system is used with telecommunications services in violation of any of the provisions in this Section, the Company will take immediate action, based on the circumstances, to protect its services or interests, including disconnection of the service, and will promptly notify the Customer of the violation. The Customer shall discontinue such improper use of the terminal equipment or communications system or correct the violation and shall confirm in writing to the Company within 10 days, following the receipt of written notice from the Company, that such use has ceased or that the violation has been corrected. Failure of the Customer to discontinue such use or to correct the violation and to give the required written confirmation to the Company within the time stated above shall result in disconnection of the Customer's service until such time as the Customer complies with the provisions of this Price List.

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**RULES AND REGULATIONS**

**2.5 PAYMENTS AND CHARGES**

**2.5.1 ESTABLISHMENT AND REESTABLISHMENT OF CREDIT**

The Company will conduct a credit investigation of each Residence service Customer or applicant prior to accepting the Customer deposit or advance payment. A Customer whose service has been discontinued for non-payment of bills for any telecommunications service will be required to pay all bills due the Company for telecommunications services or make other arrangements satisfactory to the Company and to re-establish credit before service is restored or any service started.

If service is established and it is subsequently determined that the Customer or applicant is indebted to the Company for service previously furnished, the Company may suspend or terminate the current service until satisfactory arrangements have been made for the payment of the prior indebtedness.

**2.5.2 BILLING AND COLLECTION**

The Customer is responsible for payment of all charges for equipment or facilities and services furnished by the Company to the Customer.

The Company will establish a monthly billing date for each Customer account and shall bill all charges incurred by, and credits due to the Customer under this Price List. Recurring charges are billed monthly, in advance of the month in which service is provided, except for usage sensitive charges which will be billed monthly for the preceding billing period. Bills are due upon receipt and payments must be received no later than the payment due date shown on the bill, a period of not less than 20 days from the bill date.

When service does not begin on the first day of the billing cycle, or end on the last day of the billing cycle, the charge for the fraction of the billing cycle in which service was furnished will be calculated on a pro rata basis or a bill credit may be applied for the fraction of the billing cycle in which service was not furnished.

**RULES AND REGULATIONS**

**2.5 PAYMENTS AND CHARGES (CONT'D)**

**2.5.3 BILLING DISPUTES**

The Customer is responsible for notifying the Company of any charges in dispute and the specific basis of such dispute. The Company reserves the right to require such notice to be in writing. All charges not in dispute shall be paid by the Customer by the payment due date. Upon notification of a dispute, the Company shall undertake an investigation of the disputed charges. At the conclusion of the investigation, the Company shall notify the Customer of any amount determined by the Company to be correctly charged and such amount shall become immediately due and owing. Amounts determined by the Company to be correctly charged may also be subject to the late payment charge specified in Section 2.5.8.

The Customer must provide the Company with notice of a dispute within two years from the bill date of the disputed amount.

**A. Arbitration Information and Filing Procedures**

Additionally, either party may file a claim where applicable in small claims court; or contact one of the organizations listed below to undertake arbitration. Arbitration provides for a hearing before a neutral arbitrator in lieu of a court hearing before a judge or jury. The party initiating the arbitration proceeding may select from the following arbitration organizations, which will apply the appropriate rules for consumer claims to the dispute.

American Arbitration Association  
335 Madison Ave, Floor 10  
New York, NY 10017-4605  
1-800-778-7879  
[www.adr.org](http://www.adr.org)

National Arbitration Forum  
P.O. Box 50191  
Minneapolis, MN 55405-0191  
1-800-474-2371  
[www.arbitration-forum.com](http://www.arbitration-forum.com)



**RULES AND REGULATIONS**

**2.5 PAYMENTS AND CHARGES**

**2.5.3 BILLING DISPUTES (CONT'D)**

USA&M of Oregon  
1000 SW Broadway, Suite 1710  
Portland, OR 97205  
503-223-2671  
[www.usam-oregon.com](http://www.usam-oregon.com)

Information about the arbitration process, rules, and fees may be obtained by contacting any of the organizations listed.

**B. Binding Arbitration**

All disputes arising out of or related to this Agreement (whether based in contract, tort, statute, fraud, misrepresentation or any other legal or equitable theory) submitted to arbitration must be resolved by final and binding arbitration. This includes any disputes based on any product, service or advertising having a connection with this Tariff. The arbitration will take place at a location convenient to Customer, in the area where Customer receives the service from Company.

The arbitration process established by this section is governed by the Federal Arbitration Act ("FAA"), 9 U.S.C. §§ 1-16 not state arbitration law, shall govern the arbitrability of all disputes. However, applicable federal law or the law of the state where Customer receive the service from Company may apply to and govern the substance of any disputes. Any state statutes pertaining to arbitration, however, shall not be applicable under this Section.

If there is a conflict between this Section and the rules of the arbitration organization chosen, the rules contained in this Section shall govern. If the arbitration organization that Customer selected will not enforce this Section as written, it cannot serve as the arbitration organization to resolve Customer's dispute with Company. If this situation arises, the parties shall agree on a substitute arbitration organization. In the event that the parties are unable to agree, the parties shall mutually petition a court of appropriate jurisdiction to appoint a service that will enforce this Section as written. If there is a conflict between this Section and the rest of the Tariff, this Section shall govern.

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**RULES AND REGULATIONS**

**2.5 PAYMENTS AND CHARGES**

**2.5.3 BILLING DISPUTES**

**B. Binding Arbitration (Cont'd)**

A single arbitrator will resolve the dispute. Customer will be informed that participating in arbitration may result in limited discovery based on the rules of the arbitration organization that is chosen to resolve the dispute. The arbitrator will apply applicable statutes of limitation (as modified by this Section), will honor claims of privilege recognized by law, and will take reasonable steps to protect customer account information and other confidential or proprietary information, including the use of protective orders to prohibit disclosure outside of the arbitration, if requested to do so by Customer or Company.

Both parties have the right to be represented by counsel in the arbitration. In conducting the arbitration and making any award, the arbitrator shall be bound by and strictly enforce the terms of this Tariff and may not limit, expand, or otherwise modify its terms.

The arbitrator will make any award in writing but need not provide a statement of reasons unless requested by a party. Upon a request by Customer or Company, the arbitrator will provide a brief statement of the reasons for the award. An award rendered by the arbitrator may be entered in any court having jurisdiction over the parties.

If an award granted by the arbitrator exceeds Seventy Five Thousand Dollars (\$75,000), either party can appeal that award to a three-arbitrator panel administered by the same arbitration organization. The members of the three-arbitrator panel will be selected according to the rules of the arbitration organization. The party wishing to appeal the decision of the single arbitrator shall have thirty (30) days from the date of entry of the written arbitration award to notify the arbitration organization, through a written notice of appeal, that it is exercising its right to appeal. The arbitration organization will then notify the other party that the award has been appealed. The three-arbitrator panel will issue its decision within one hundred and twenty (120) days of the date of the appealing party's notice of appeal. The decision of the three-arbitrator panel shall be final and binding, except for any appellate right which exists under the FAA.

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ISSUED: APRIL 12, 2006

EFFECTIVE: APRIL 17, 2006

**RULES AND REGULATIONS**

**2.5 PAYMENTS AND CHARGES**

**2.5.3 BILLING DISPUTES**

B. Binding Arbitration (Cont'd)

All parties to the arbitration must be individually named. There shall be no right or authority for any claims to be arbitrated or litigated on a class-action or consolidated basis or on bases involving claims brought in a purported representative capacity on behalf of the general public (such as a private attorney general, other subscribers or other persons similarly situated).

The arbitrator cannot award damages in connection with any dispute that are not expressly authorized by this Section and cannot award punitive damages or attorneys' fees unless such damages are expressly authorized by a statute that governs the dispute. Both parties waive any claims for an award of damages that are excluded under this agreement.

Upon Customer's written request, Company will advance to customer all arbitration filing fees and arbitrator's costs and expenses. Customer is responsible for all additional costs that Customer incurs in the arbitration, including, but not limited to, costs for attorneys or expert witnesses. If the arbitration proceeding is decided in Company's favor, Customer shall reimburse Company for the fees and costs advanced to Customer only up to the amount that Customer would have paid to file a case regarding Customer's dispute with Company in the state court where Customer receives the Services from Company. If the arbitration proceeding is determined in Customer's favor, Customer will not be required to reimburse Company for any of the fees and costs advanced by Company. In the event a party elects to appeal an award to a three (3) arbitrator panel, the prevailing party in the appeal shall be entitled to recover all reasonable attorneys' fees and costs incurred in that appeal. Notwithstanding anything to the contrary in this Section, Company will pay all fees and costs which it is required by law to pay.

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**RULES AND REGULATIONS**

**2.5 PAYMENTS AND CHARGES (CONT'D)**

**2.5.4 ADVANCE PAYMENTS**

The Company may require a Customer or applicant to make an advance payment as a condition of continued or new service. The Company reserves the right to require from an applicant for service advance payments of recurring and nonrecurring charges, estimated usage charges, and other charges and guarantees in such amount as may be deemed necessary by the Company for safeguarding its interests. In accordance with the Company's practice of requiring that all regularly recurring charges for services, equipment, and facilities be paid monthly in advance, an applicant for service will be required to pay the charges applicable together with at least one month's rates for the services, equipment, and facilities applied for. In addition, where special construction is involved, advance payment of the construction charges quoted may be required at the time of application. The advance payment will be applied to any indebtedness for the service and facilities for which the advance payment is made.

**2.5.5 DEPOSITS**

The Company may require a deposit, or an increase in the amount of deposit, of a Customer who cannot establish a credit standing satisfactory to the Company. If the actual bills of the Customer subsequently rendered prove that the deposit is either insufficient or excessive, the deposit may be changed in accordance with the facts. Generally, a deposit will be equivalent to two times the estimated average monthly bill.

**EXCEPTION:** Qualifying applicants for the Low-Income Telephone Assistance Programs may initiate service without paying a deposit if they voluntarily elect to have Toll Restriction and 900/976 Call Blocking on their line. These features will be provided at no charge to qualifying Low-Income Telephone Assistance Programs Customers.

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**RULES AND REGULATIONS**

**2.5 PAYMENTS AND CHARGES**

**2.5.5 DEPOSITS (CONT'D)**

Any such deposit may be held during the continuance of the service as security for the payment of any and all amounts accruing for the service. The deposit will be returned to the Customer, with simple interest at a rate determined by the PSC, upon satisfactory payment of all proper charges for 12 consecutive months. The current interest rate is 9% a year and is computed from the date of the receipt of the deposit by the Company until it is refunded or service is terminated. A deposit is returned to the Customer, less any amounts due the Company when service is disconnected.

Even though a deposit is made, the Customer must still pay bills, including any advance payments, when requested. A Customer's payment of a deposit does not waive or modify the Company's practice of disconnecting service for failure to pay any bills.

**2.5.6 RETURNED CHECK CHARGES**

The Customer will be assessed a charge of \$20.00 for each check, draft, or electronic funds transfer, in addition to any late payment charges as specified in Section 2.5.8, submitted by the Customer to the Company which a financial institution refuses to honor.

**2.5.7 MINIMUM PERIOD CHARGE**

The minimum period for service is one month. When a service is discontinued prior to the expiration of the minimum period, the minimum period charge will apply. In addition, all nonrecurring charges associated with the provision of the service will be billed.

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**RULES AND REGULATIONS**

**2.5 PAYMENTS AND CHARGES (CONT'D)**

**2.5.8 LATE PAYMENT CHARGE**

Except as otherwise provided in this Price List, if any portion of the Customer's payment is received by the Company after the next billing date, or if any portion of the payment is received by the Company in funds which are not immediately available upon presentment, a late payment charge shall be due to the Company, provided billing capability exists. The late payment charge shall be the portion of the payment not received by the date due, multiplied by a factor. The late payment factor shall be 1.5% per month.

Late payment charges do not apply to the disputed portion of unpaid balances, if resolved in favor of the Customer. The disputed portion of unpaid balances, if resolved in favor of the Company, may be subject to the late payment charge if they remain unpaid:

- 1) after the payment due date printed on the bill,
- 2) as of the date of resolution of the dispute, or
- 3) as of the original date due.

Undisputed amounts of the same bill may be subject to the late payment charge if they remain unpaid when the next bill is generated.

Collection procedures and security deposit requirements are unaffected by the application of the late payment charge.

The late payment charge does not apply to final accounts.

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**RULES AND REGULATIONS**

**2.6 CANCELLATION, DISCONTINUANCE, AND CHANGES**

**2.6.1 CANCELLATION OF SERVICE**

**A. Cancellation of Application for Service**

When the Customer cancels an application for service prior to the start of service, no charges will be imposed except for those specified below.

Where, prior to cancellation by the Customer, the Company incurs any expenses in installing the service or in preparing to install the service that it otherwise would not have incurred, a charge equal to the costs the Company incurred shall apply, but in no case shall this charge exceed the sum of the charge for the minimum period of services ordered, including installation charges, and all charges others levy against the Company that would have been chargeable to the Customer had service begun.

The special charges described above will be calculated and applied on a case-by-case basis.

**B. Cancellation of Service**

If a Customer cancels a service order or terminates services before the completion of the term for any reason whatsoever, the Customer agrees to pay to the Company the following:

1. All non-recurring charges reasonably expended by the Company to establish service to the Customer; and
2. Any disconnection, early cancellation, or termination charges reasonably incurred and paid to third parties by the Company; and

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**RULES AND REGULATIONS**

**2.6 CANCELLATION, DISCONTINUANCE, AND CHANGES**

**2.6.1 CANCELLATION OF SERVICE**

**B. Cancellation of Service (Cont'd)**

3. All recurring charges specified in the applicable Price List up to 11:59 pm of the date of disconnection; and
4. Any other charges specified in this Price List or in the service order for such early cancellation or termination.

The above sums shall become due and owing as of the effective date of the cancellation or termination and be payable as specified in this Price List.

**2.6.2 DISCONTINUANCE OF SERVICE**

- A. The Company may, without incurring any liability, discontinue or suspend service without notice, or refuse service, if:
  1. The Company deems that such action is necessary to prevent abuse or to protect against fraudulent use as described in Section 2.1.6, preceding, or to otherwise protect its personnel, agents, facilities, equipment, assets, or services; or
  2. The Customer uses, or attempts to use, service with the intent to avoid the payment, either in whole or in part, of the listed charges for the service by:
    - a. Using or attempting to use service by rearranging, tampering with, or making connections to the Company's service not authorized by this Price List; or
    - b. Using fraudulent means or devices, tricks, schemes, false or invalid numbers, false representation, false credit devices, or electronic devices; or
    - c. Any other fraudulent means or devices; or



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**RULES AND REGULATIONS**

**2.6 CANCELLATION, DISCONTINUANCE, AND CHANGES**

**2.6.2 DISCONTINUANCE OF SERVICE (CONT'D)**

**A. (Cont'd)**

3. The Customer uses service to transmit a message, locate a person or otherwise give or obtain information without payment for the service, or
  4. Any material portion of the facilities used by the Company to provide service to the Customer should suffer a casualty that renders all or any material portion of such equipment or facilities inoperable beyond feasible repair; or
  5. Any governmental order or directive calls for the discontinuation of service, the Customer alters the services to be provided, or the Customer violates an applicable law or regulation.
- B. The Company may, without incurring any liability, discontinue or suspend service with prior written notice of at least 7 days, if:**
1. The Customer refuses to furnish information to the Company regarding the Customer's credit-worthiness, past or current use of communications service, or
  2. The Customer provides false information to the Company regarding the Customer's identity, address, credit-worthiness, its past or current use of communications services, or its planned use of the Company's service(s); or
  3. The Customer states that it will not comply or fails to comply with a request of the Company for deposits or advance payments, as specified in this Price List, or
  4. The Customer uses service without payment for the service or the Customer fails to pay any amounts owing to the Company for services to which the Customer subscribes or had subscribed or used, or
  5. Any material portion of the facilities used by the Company to provide service to the Customer is condemned.
  6. The Customer establishes a pattern of behavior with respect to the Company that is intended to vex, harass, threaten or annoy the Company, its employees, or its agents. A pattern of behavior is intended to vex, harass, threaten, or annoy if its purpose is to disturb, irritate, or interrupt the Company's operations through continued and repeated acts.

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**RULES AND REGULATIONS**

**2.6 CANCELLATION, DISCONTINUANCE, AND CHANGES**

**2.6.2 DISCONTINUANCE OF SERVICE (CONT'D)**

- C. On the business day prior to actual discontinuance of local service, a representative of the Company will make a reasonable effort to contact the Customer, either in person or by telephone, to apprise the Customer of the proposed action and steps to take to avoid or delay discontinuance.
- D. The discontinuance of service(s) by the Company pursuant to this Section does not relieve the Customer of any obligation to pay the Company for charges due and owing for service(s) furnished up to the time of discontinuance. In addition, the Company may declare all future-billed monthly and other charges which would have been payable by the Customer during the month for which such services would have otherwise been provided to the Customer, to be immediately due and payable.
- E. 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.

**2.6.3 CHANGES IN SERVICE**

If the Customer makes or requests material changes in service parameters, premises locations, or otherwise materially modifies any provision of the application for service, the Customer's installation fee shall be adjusted accordingly.

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**RULES AND REGULATIONS**

**2.6 CANCELLATION, DISCONTINUANCE, AND CHANGES (CONT'D)**

**2.6.4 RESTORATION OF SERVICE**

When a Customer's service has been disconnected in accordance with this Price List and the service has been terminated through the completion of a Company service order, service will be re-established only upon the basis of an application for new service.

If any Customer's service is restored after having been disconnected in accordance with this Price List but a Company service order to terminate such service has not been completed when such service is restored, the Customer may be required to pay a restoral of service charge.

If a service has been suspended or discontinued for nonpayment, service will be re-established upon receipt of all charges due, which includes charges for services and facilities during the period of suspension and which may include a service restoral fee. If the Customer has a history of payments returned for insufficient funds, the Company may require payment by cash, money order or certified check. If such payment is made by personal check, restoral of service will be effected upon bank clearance of the check.

**2.7 ASSIGNMENT OR TRANSFER OF SERVICE**

The Customer may not assign or transfer its rights or duties in connection with the services and equipment or facilities provided by the Company without the written consent of the Company. The Company may assign its rights and duties (a) to any subsidiary, parent company, or affiliate of the Company, (b) pursuant to any sale or transfer of substantially all the assets of the Company, or (c) pursuant to any financing, merger or reorganization of the Company.

**ISSUED: DECEMBER 27, 2004**

**EFFECTIVE: JANUARY 1, 2005**

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**RULES AND REGULATIONS**

**2.8 NOTICES AND COMMUNICATIONS**

All notices or other communications required to be given pursuant to this Price List will be in writing except where otherwise specified in this Price List. Notices and other communications of either party, and all bills mailed by the Company, shall be presumed to have been delivered to the other party on the third business day following placement of the notice, communication, or bill with the U.S. Mail or a private delivery service, postage prepaid and properly addressed, or when actually received or refused by the addressee, whichever occurs first.

The Company or the Customer shall advise the other party of any changes to the addresses designated for notices, billing or other communications.

**2.9 PROVISION FOR CERTAIN LOCAL TAXES AND FEES**

Any assessments, franchise fees, privilege, license, occupation, excise, or other similar fees or taxes, whether in a lump sum or at a flat rate, or based on receipts, or based on poles, wire or other utility property units, imposed upon the Company by any governmental authority shall be added pro rata, insofar as practical, to the rates and charges stated in the Company's standard schedules, in amounts which in the aggregate for the Company's Customers of any political entity shall be equal to the amount of any such fee or tax upon the Company. The Company shall, so long as any such tax or fee is in effect, add to the bills of the Customers in such political entity pro rata on the basis of the revenue derived by the Company from each such Customer, an amount sufficient to recover any such tax or fee and may list this amount separately on the bill.

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**RULES AND REGULATIONS**

**2.10 SURCHARGES AND TAXES**

**2.10.1 UNIVERSAL SERVICE FUND SURCHARGE**

Universal Service Fund is established to maintain the universal availability of local service at reasonable rates and to promote the availability of long distance services at reasonably comparable rates throughout the state. Universal Service Fund surcharges are assessed on all local access lines and long distance services.

In compliance with the Commission's Universal Service Fund Surcharge rules, a monthly surcharge rate is assessed on each residence line. The surcharge is based on .5% of the retail revenue for telecommunications services and contributes toward funding for the Utah Universal Service Fund.

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**EFFECTIVE: JANUARY 1, 2005**

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**RULES AND REGULATIONS**

**2.11 SPECIAL CONSTRUCTION**

Subject to the agreement of the Company, PSC regulations, and to all of the regulations contained in this Price List, special construction of facilities may be undertaken on a reasonable effort basis at the request of the Customer. Special construction is construction:

- A. undertaken where facilities are not presently available, and there is no other requirement for the facilities so constructed; or
- B. of a type other than that which the Company would normally utilize in the furnishing of its services; or
- C. over a route other than that which the Company would normally utilize in the furnishing of its services; or
- D. in a quantity greater than that which the Company would normally construct; or
- E. on an expedited basis; or
- F. on a temporary basis until permanent facilities are available; or
- G. involving abnormal costs; or
- H. in advance of its normal construction.

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## RULES AND REGULATIONS

### 2.12 DEFINITIONS

#### Residence Local Service

Residence Local Service provides the Customer with an access line and usage within a Local Calling Area for the transmission of two-way interactive switched voice or data communications. The primary use of the service is of a domestic nature and the business use, if any, is merely incidental.

#### Customer

The person or legal entity that subscribes to service under this Price List and is responsible for payment of charges for services furnished to that Customer.

#### Customer Premises

One Customer Premises is all space in the same building occupied by a Customer and all space occupied by the same Customer in different buildings on contiguous property.

#### Local Calling Area

The area in which a Customer of Residence Local Service may place a local call without incurring long distance charges.

#### Local Serving Area

The area in which the Company has the technical capability to provide Residence Local Service.