

NorthPoint Communications, Inc.

Tariff F.C.C. No. 1
Original Title Sheet

ACCESS SERVICES

RATES, RULES AND REGULATIONS GOVERNING
THE PROVISION OF INTERSTATE
COMMUNICATIONS SERVICES
FURNISHED BY
NORTHPOINT COMMUNICATIONS, INC.

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ACCESS SERVICES

CHECK SHEET

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EXPLANATION OF SYMBOLS

- (C) To signify a changed listing, rule or condition which may affect rates or charges.
- (D) To signify discontinued material, including but not limited to a listing, rate, rule or condition.
- (I) To signify an increase.
- (M) To signify material relocated from or to another part of tariff schedule with no change in text, rate, rule, or condition.
- (N) To signify new material including a listing, rate, rule, or condition.
- (R) To signify a reduction.
- (T) To signify a change in wording of text but no change in rate, rule, or condition.
- (Z) To signify a Correction

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CONCURRING CARRIERS

None.

CONNECTING CARRIERS

None.

OTHER PARTICIPATING CARRIERS

None.

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DEFINITIONS

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

Company: NorthPoint Communications, Inc., the issuer of this tariff.

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

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

DSL: Digital Subscriber Line.

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DEFINITIONS (Continued)

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

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

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

FCC: Federal Communications Commission.

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DEFINITIONS (Continued)

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

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

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

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

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

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

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DEFINITIONS (Continued)

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

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

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

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

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

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

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SECTION I. APPLICATION OF TARIFF

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

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SECTION 2. RULES AND REGULATIONS

2.1 Undertaking of the Company

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

2.2 Terms and Conditions

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

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SECTION 2. RULES AND REGULATIONS

2.3 Application for Service

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

2.3.1 Cancellation of Application for Service

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

2.3.2 Cancellation of Service

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

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SECTION 2. RULES AND REGULATIONS

2.4 Assignment or Transfer

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

2.5 Contracts

Pursuant to the *Memorandum Opinion and Order* of the Federal Communications Commission in CCB/CPD 96-3 and 96-7, FCC 97-219, released June 19, 1997, the Company may also offer interstate exchange access services on a non-tariffed, contractual basis. The terms and conditions of this tariff do not apply to such contractual services, except to the extent expressly incorporated into a contract.

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SECTION 2. RULES AND REGULATIONS

2.6 Deposits

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

SECTION 2. RULES AND REGULATIONS

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2.7 Notices

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

2.8 Payment and Rendering of Bills

- A. The Company shall bill all charges incurred by and credits due to the Customer. The Customer may choose to receive bills in either paper or electronic format. Such bills are due within thirty (30) days after the date of issuance thereof, regardless of the media utilized. The Company shall bill in advance charges for all Services to be provided during the ensuing billing period except for charges associated with Service usage. Adjustments for the quantities of Service established or discontinued in any billing period beyond the minimum period will be prorated to the number of days based on a 30 day month. The Company will, upon request and if available, furnish such detailed information as may reasonably be required for verification of the bill.
- B. The Company shall bill for all Services rendered within 90 days of when those Services are provided.

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SECTION 2. RULES AND REGULATIONS

2.8 Payment and Rendering of Bills (Continued)

- C. All bills for Service provided to the customer by the Company are due thirty (30) days from the date of issuance of the bill. If any portion of the payment is received by the Company after the payment due date as set forth above, or if any portion of the payment is received by the Company in funds which are not immediately available to the Company, then a late payment penalty shall be due the Company. The late payment penalty shall be a portion of the payment not received by the payment due date times a late factor. The late factor shall be 1.5% per month (0.049315% per day) or 18% annually, or the highest rate allowed by law, whichever is the lesser. The late factor will be applied for the number of days from the payment due date to and including the date that the Customer makes the late payment funds immediately available to the Company.
- D. Customer shall be responsible for payment of all sales, use, gross receipts, excise, access, bypass, franchise or other local, state and Federal taxes, fees, charges, or surcharges, however designated, imposed on or based upon the provision, sale or use of the Services rendered by Company, (excepting Company's income taxes). Such taxes shall be separately stated on the Customer's invoice.

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SECTION 2. RULES AND REGULATIONS

2.9 Disputed Bills

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

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

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SECTION 2. RULES AND REGULATIONS

2.10 Discontinuance and Restoration of Service

2.10.1 Cancellation by the Company

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

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SECTION 2. RULES AND REGULATIONS

2.10 Discontinuance and Restoration of Service (cont'd)

2.10.1 Cancellation by the Company (cont'd)

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

2.10.2 Cancellation of Term Agreement

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

2.10.3 Resumption of Service

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

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SECTION 2. RULES AND REGULATIONS

2.11 Information to be Provided to the Public

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

2.12 [Intentionally left blank]

2.13 Credit Allowance for Interruptions

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

A. Credit allowances do not apply to interruptions:

- 1) caused by the Customer, any End User or any third party;
- 2) due to failure of power or equipment provided by the Customer or others;
- 3) during any period in which the Company is not given access to the Premises;

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SECTION 2. RULES AND REGULATIONS2.13 Credit Allowance for Interruptions (Continued)

- 4) due to scheduled maintenance and repair; or
- 5) due to Acts of God or other events listed in section 2.19(C) below.

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

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

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

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SECTION 2. RULES AND REGULATIONS

2.13 Credit Allowance for Interruptions (Continued)

C. Interruptions over Twenty-Four (24) Hours

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

SECTION 2. RULES AND REGULATIONS

2.14 Service Connections

- A. All Service along the facilities between the point identified as the Company's origination point and the point identified as the Company's termination point will be furnished by the Company, its agents or contractors.
- B. Customer shall allow Company continuous access and right-of-way to both Customer and End User Premises to the extent reasonably determined by the Company to be appropriate to the provision and maintenance of Services, equipment, facilities and systems relating to this tariff.
- C. The Company may undertake to use reasonable efforts to make available Services to a Customer on or before a particular date, subject to the provisions of and compliance by the Customer with the regulations contained in this tariff. The Company does not guarantee availability by any such date and shall not be liable for any delays in commencing Service to any Customer.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (cont'd)

- D. The Company undertakes to use reasonable efforts to maintain only the facilities and equipment that it furnishes to the Customer or End User. Neither the Customer or the End User may, nor permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.

- E. Title to all facilities (except such equipment and/or facilities as are sold to or independently provided by a Customer or End User), including terminal equipment, shall remain with the Company. The operating personnel and the electric power consumed by such equipment on the Premises of Customer or End User shall be provided by and maintained at the expense of the Customer.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (Continued)

- F. Equipment the Company provides or installs at the Customer's or End User's Premises for use in connection with the Services shall not be used for any purpose other than that for which the Company provided it.
- G. The Company shall not be responsible for the operation or maintenance of any Customer or End User provided communications equipment. The Company may install certain Customer or End User provided communications equipment upon installation of Service; unless otherwise agreed by the Company in writing, Company shall not thereafter be responsible for the operation or maintenance of such equipment. Where such equipment is connected to the facilities furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of facilities offered under this tariff and to the maintenance and operation of such facilities; subject to this responsibility the Company shall not be responsible for:
 - 1) The proper origination of signals by Customer provided equipment or for the quality, or defects in, such signals; or
 - 2) The reception of signals by Customer provided equipment.
- H. The Customer shall be responsible for the payment of service charges for visits by the Company's agents or employees to the Premises when the Service difficulty or trouble report results from the improper or inappropriate use of equipment or facilities by the Customer or End User.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (Continued)

- I. In the event Company places Company equipment on Customers' premises for the purpose of furnishing service under this agreement, unless otherwise stipulated, Company is solely responsible for operating and maintaining such equipment. In the event that Customer attempts to operate or maintain any such equipment without first obtaining Company's written approval, in addition to any other remedies of Company for a breach by Customer of Customer's obligations hereunder, Customer shall pay Company for any damage to Company's equipment caused or related to such unauthorized operation or maintenance of Company's equipment upon receipt by Customer of a Company invoice therefor. In no event shall Company be liable to Customer, End User or any other person for interruption of the Service or for any other loss, cost or damage caused or related to Customer's improper or inappropriate use of Company-provided equipment.
- J. Customer agrees to allow Company to remove all Company-provided equipment from Customer or End User's premises:
- 1) upon termination, interruption or suspension of the Service in connection with which the equipment was used; and
 - 2) for repair, replacement or otherwise as Company may determine is necessary or desirable.
- K. At the time of such removal, such equipment shall be in the same condition as when delivered to Customer or installed in Customer or End User's premises, normal wear and tear only excepted. Customer shall reimburse Company for the unamortized cost of any such equipment in the event the foregoing conditions are not met.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (Continued)

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

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

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