



Tech Valley Communications

Terms and Conditions

Interstate Toll Message Telecommunications Service

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Effective: 9/21/2002

Tech Valley Communications

87 State St.

Albany, NY 12207

A. APPLICATION

1. These terms and conditions contain regulations applying to interstate common carrier communications service provided by Carrier to locations within the United States as specified herein. Such services may be provided through the facilities of the carrier, through resale of the facilities and services of another carrier, or through a combination thereof.
2. Regulations and charges applying to intrastate common carrier communications services to locations within the State of New York are contained in the Carrier's PSC Tariff No. 1-Telephone.

B. DEFINITIONS

As used in these Terms and Conditions, the following terms shall have the following meanings:

1. Application for Service

A standard order form used by subscription customers which includes all pertinent billing, technical and other descriptive information which will enable Carrier to provide the specified communication services.

2. Authorization Code

A numerical code, one or more of which are assigned to a subscription customer to enable Carrier to identify use of service on the customer's account and to bill the customer accordingly. Multiple authorization codes may be assigned to a customer to identify individual users or groups of users. All authorization codes shall be the property solely of the Carrier, and a customer shall have no property or other right or interest in the use of any particular authorization code.

3. Bandwidth

The total frequency, in Hertz, allocated for a channel.

4. Billing Cycle

A monthly period used as the basis for recurring charges or usage requirements.

5. Business Customer

A customer who subscribes to or makes use of Carrier's service in the name of a business, trade or profession, or whose usage is associated with business activities.

DEFINITIONS (continued)

6. Carrier (also referred to as "the company")

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7. Carrier's Point of Presence

Location of the Carrier's terminal or the terminal of the underlying carrier whose service is resold.

8. Carrier's Terminal

The Carrier's switching equipment or the switching equipment of the underlying carrier whose service is resold.

9. Customer

The person, firm, corporation or other entity which utilizes service provided by the carrier, or which owns, leases, uses or subscribes to lines or terminal equipment used to access carrier's service. For debit or credit card calls (if offered), the customer is the caller. For originating sent paid coin calls (if offered), the customer is the owner, lessee, subscriber, or user of any line or terminal equipment used to access carrier's service and the entity or individual who placed the call. For calls placed on a collect and billed to third number basis (if offered) the customer is the entity which agrees to be responsible for charges or who places or receives the call. The term customer includes the customer and any of its affiliates, associates, agents or employees. A customer is responsible for the payment of charges and for compliance with all of these Terms and Conditions. In the situation where one or more entities is considered a customer for any particular call, each customer shall be jointly and severally liable for payment.

DEFINITIONS (continued)

10. Debit Card Call - A call originated over special installations or over "800" or other type of access arranged by the carrier, where payment is made through use of pre-paid cards distributed by carrier or carrier's agents or resellers.

11. Dialed Access

An arrangement whereby a customer uses the public switched network facilities of a local exchange telephone company to access the terminal of the Carrier or the terminal of an underlying carrier whose service is resold.

12. Direct Access

An arrangement whereby a customer uses facilities other than the public switched network facilities of a local exchange telephone company to access the terminal of the Carrier.

13. Feature Group A or B Service

Toll service provided when a customer accesses the carrier's terminal over Feature Group A or Feature Group B access service provided by a local exchange company wherein seven digits plus a customer identification code are transmitted from the customer's premise.

14. Feature Group D Service

Toll service provided when a customer accesses the carrier's terminal or the terminal of an underlying carrier whose service is resold over Feature Group D "equal access" service provided by a local exchange company.

15. Local Call

Any call which, if placed by a customer over the facilities of a local exchange telephone company, would not be rated as a toll call.

16. Primary Calling Number

The telephone number assigned to a subscription customer by the local exchange telephone company, which shall be geographically associated with the location of the local exchange central office associated with that number.

17. Toll Call

Any call extending beyond the local exchange of the originating caller which is rated on a toll schedule by the local exchange telephone company, as opposed to a local or Metropolitan LATA interregional call.

C. REGULATIONS

1. Description of Service

a. Carrier is a common carrier providing intrastate private line and toll communications service through its own facilities, or resale, or a combination thereof, to customers. Customers may use service for their direct transmission of voice, data, and other types of telecommunications within the United States through use of carrier's own facilities, through resale of the facilities and services of another carrier, or through a combination thereof.

b. Timing of Calls

i. Interstate Toll calls will be billed in six-second increments, subject to a one-minute minimum.

REGULATIONS (continued)

2. Responsibility for Charges

- a. The customer is responsible for all calls placed or accepted by the customer as set forth in §B(9) above. To the extent not covered by B(9), the customer is responsible for all calls placed using (a) any authorization code, debit card or credit card assigned to or purchased by the customer, (b) any exchange access line assigned to the customer and presubscribed to, or used to connect to, the Carrier's service or the service of the underlying carrier whose service is resold, (C) any facilities, terminal equipment, or lines owned, leased or used by the customer in connection with carrier's service or the service of the underlying carrier whose service is resold, (d) any-direct connect facilities utilized by the customer, or (e) any credit card or travel card used by the customer or for which the customer is responsible. Upon knowledge of facts which would alert a reasonable person to the possibility an unauthorized person is using the customer's authorization code, presubscribed lines, facilities, equipment, exchange lines, direct connect facilities, credit card or travel card, the customer shall alert and give notice to the Carrier of such fact. Unless otherwise provided by law, the Customer shall be excused from liability only with respect to calls using the customers authorization code or credit card placed after receipt and processing by the Carrier of such notice. Customer shall at all times remain liable for all calls placed over direct connect facilities utilized by the customer, and over presubscribed or other exchange access lines, facilities and equipment used to access carrier's service, or the service of the underlying carrier whose service is resold. Customer shall at all times remain liable and responsible notwithstanding the perpetration of fraud or any unauthorized use by any person. Once purchased, the security of debit cards is the sole responsibility of customer, and carrier shall have no obligation to make any refund, or replace any debit card, in the case of loss or theft of any debit card.
- b. The customer is also responsible for all charges on calls made on a collect or billed to third number basis where the customer has agreed to be responsible for such charges.

REGULATIONS (continued)

3. Limitations on Service

- a. Service is offered by the Carrier subject to the availability of necessary facilities and/or equipment, including facilities or equipment to be provided by Carrier, connecting carriers, underlying carriers, owners and operators of transmission capacity leased to Carrier, and local exchange carriers.
- b. THE CARRIER MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.
- c. The carrier undertakes 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 these Terms and Conditions. The carrier does not guarantee availability by any such date and shall not be liable for any delays in commencing service to any customer.

4. Location of Service

a. Originating Areas

Areas in the United States where service has been established by the Carrier.

b. Terminating Areas

All areas of the United States of America.

5. Use of Service

- a. Service may be used for any lawful purpose by the customer or the customer's authorized agent or customer.
- b. The customer obtains no property right or interest in use of any specific type of facility, service, connection, equipment, number, process, credit card, travel card, debit card or code (except for entitlement in certain circumstances to apply prepaid debit cards to services provided by carrier). All right, title and interest to such items remain, at all times, solely with the Carrier.

REGULATIONS (continued)

6. Termination or Denial of Service by Carrier

- a. The Carrier may immediately and without notice to the customer, without liability of any nature, temporarily deny, terminate, or suspend service to any customer in the event such customer or his agent willfully damages company equipment; interferes with use of Carrier's service by other customers of the Carrier; unreasonably places capacity demands upon Carrier's facilities or service; or violates any statute or provision of law, or any rule or regulation of any state or federal regulatory agency relating to communications, or otherwise fails to comply with the provisions of these Terms and Conditions or applicable law.
- b. In the event the customer is the subject of any voluntary or involuntary petition or proceeding in bankruptcy, seeks protection or relief from creditors in a bankruptcy court, or executes an assignment for the benefit of creditors; or in the event of nonpayment of any bill rendered by the Carrier, or the non-payment of any required deposit, the Carrier may terminate service two days after written notice is delivered to the customer or its authorized agent, or five days after such notice is mailed by first class mail to the customer or his authorized agent. In the case of non-payment of any bill or deposit, service need not be restored until the bill rendered or the required deposit has been paid; provided, however, that in the case of any customer capable of obtaining access to local exchange service only through the Carrier's system, local service may not be terminated until ten days after delivery of written notice or thirteen days after mailing written notice by first class mail.
- c. In the event of the nonpayment of any bill rendered by the Carrier, or the non-payment of any required deposit, the Carrier may terminate service until the bill rendered or the required deposit has been paid. Where carrier provides bundled local and toll service to customer, failure to pay all amounts due for all services may result in termination of all bundled services.

REGULATIONS (continued)

7. Termination by Customer

Service may be terminated by the customer at any time, subject to payment in full of all charges for the period service is rendered, except that, if termination occurs within the initial contract period, charges apply for the full initial contract period.

8. Initial Contract Period

Unless otherwise provided in contract, or unless customer subscribes to a term agreement or term rate plan under these Terms and Conditions, the initial contract period for subscription service is one month. Thereafter, contract periods shall be for successive one-month periods.

When the customer utilizes dedicated facilities, the contract period shall expire 30 days after notice is given, unless a longer term is specified in these Terms and Conditions or in contract.

REGULATIONS (continued)

9. Payment and Billing

- a. For subscription customers, service is provided and billed on a billing cycle basis, beginning on the date that service becomes effective. For casual customers, service is provided on a per call basis, with payment being made through credit cards or other billing mechanisms accepted by the carrier. Billing is payable upon receipt. Except as specified in section 9(d) below, interest at the rate of 1.5% per billing cycle, or the amount otherwise authorized by law, whichever is lower, will accrue upon any unpaid amount commencing 28 days after rendition of bills. Additional interest charges may be assessed by credit card issuers to the customer, consistent with an arrangement between the customer and the credit card company.
- b. The security of the customer's authorization codes, debit cards, travel cards, credit cards, exchange lines, equipment, and direct connect facilities are the responsibility of the customer. All calls placed using the customer's equipment, direct connect facilities, exchange lines, authorization codes, debit cards, travel cards, or credit cards will be billed to, and must be paid, by the customer. Recurring charges, deposits, and non-recurring charges are billed in advance. The initial billing may, at Carrier's option, also include one month's estimated usage billed in advance. Thereafter, charges based on actual usage during a month and any accrued interest will be billed monthly in arrears.
- c. All bills are presumed accurate, and shall be binding on the customer unless objection is received by the Carrier in writing within 60 days after such bills are rendered. No credits, refunds, or adjustments shall be granted if demand therefore is not received by the Carrier in writing within such 60 day period.
- d. (i) In the case of the State of New York and its agencies, the City University of New York, the Facilities Development Corporation, and the State University Construction Fund, payment shall be due within forty-five days after receipt of a bill from the Carrier. In the event payment is not received by such date, interest may be applied to the amount due beginning on the day after the required payment date and ending on the date payment is actually received.

(ii) The rate of interest charged pursuant to para. d(i) above shall be equal to the rate set by the state tax commission for corporate taxes pursuant to Section 1096(e) (1) of the tax law in effect on the date the interest payment is made.

REGULATIONS (continued)

10. Deposits and Guaranties

- a. Applicants or customers whose financial condition is not acceptable to Carrier may be required at any time, at Carrier's option, to make a deposit in an amount equaling to two months' actual or estimated charges for the regulated and non-regulated services, equipment, and facilities to be provided. Deposits may be applied by carrier to any amount owed by customer, including but not limited to early cancellation or termination charges. In the case of a cash deposit, interest at the rate specified by the Public Service Commission will be accrued for the period during which the deposit is held by Carrier. At Carrier's option, the deposit may be refunded or credited to the customer at any time prior to termination of service.
- b. Carrier may at any time increase the deposit to be posted by the Customer to reflect actual or anticipated increases in the customer's billings.
- c. In the case of a business customer, carrier may, at its discretion, require personal guaranties from customer's owners or officers of all customer's liabilities and obligations to carrier.

11. Inspection, Testing and Adjustment

- a. Carrier may, upon reasonable notice, make such tests and inspections as may be necessary to investigate the installation, operation or maintenance of the customer's or the Carrier's equipment or connecting facilities. The Carrier may interrupt service at any time, without penalty or liability to itself, where necessary to prevent improper use of service, equipment, facilities, or connections.
- b. Upon reasonable notice, the facilities and equipment provided by the Carrier shall be made available to Carrier for such tests and adjustments as may be necessary for their maintenance in a condition satisfactory to Carrier. No interruption allowance will be granted for the time during which such tests and adjustments are made, unless such interruption exceeds forty-eight hours in length.

REGULATIONS (continued)

12. Costs of Collection and Enforcement Proceedings

In the event Carrier is required to initiate legal proceedings to collect any amounts due to Carrier for services, equipment, or facilities, or to enforce any judgment obtained against the customer, or for the enforcement of any other provision of these Terms and Conditions or applicable law, customer shall, in addition to all amounts due, be liable to Carrier for all reasonable costs incurred by Carrier in such proceedings and enforcement actions, including reasonable attorneys' fees, collection agency fees or payments, and court costs. In any such proceeding, the amount of collection costs (including attorneys fees) due the carrier will be determined by the Court.

13. Interconnection

- a. Service furnished by the Carrier may be interconnected with services, equipment, or facilities of other authorized communications common carriers and with private systems, subject to technical limitations established by the Carrier. Service furnished by the Carrier is not part of a joint undertaking with such other carriers. Any special interface equipment or facilities necessary to achieve compatibility between the facilities of the Carrier and other participating carriers shall be provided at the customer's expense.
- b. Interconnection with the facilities, equipment, or services of other carriers shall be under the applicable terms and conditions of the other carriers' tariffs.

REGULATIONS (continued)

14. Liability of the Carrier

- a. Due to the unavailability of errors incident to the services and to the use of the facilities furnished by the Carrier or connecting Carriers, the services and facilities furnished by the Carrier and connecting Carriers are subject to the terms, conditions and limitations set forth herein.
- b. [Reserved)

REGULATIONS (continued)

14. Liability of the Carrier (Cont'd)

c. Exclusivity of allowance in absence of gross negligence or willful misconduct

No liability of any nature whatsoever, including but not limited to consequential damages, shall attach to the Carrier for damages arising from errors, mistakes, omissions, interruptions, or delays of the Carrier, or its agents, servants or employees, in the course of establishing, furnishing, rearranging, moving, terminating, or changing regulated or non-regulated service or facilities (including the obtaining or furnishing of information in respect thereof or with respect to the subscribers or users of the service or facilities) in the absence of gross negligence or willful misconduct.

d. The Carrier is not liable under any circumstance for:

- i. any act or omission of any connecting or underlying carrier or local exchange telephone company or its agents, servants or employees; for providers of connections, equipment, facilities, or service other than the Carrier or its agents, servants or employees; for any act or omission of any person or entity owning telecommunications facilities used by the customer in conjunction with the Carrier's service; culpable conduct of the customer, its agents, servants, employees, invitees, or guests, or failures of equipment, facilities or connections provided by the customer; or for any act or omission of any governmental or Public Service Agency to which emergency calls are placed.
- ii. mistakes, omissions, interruptions, errors, delays, or defects in transmission, or failure to transmit, when caused by acts of God, fire, war riots, Government authorities, or other causes beyond Company control.

REGULATIONS (continued)

15. Credit Investigation

By applying for service from carrier, customer understands that carrier may conduct an investigation, using commercial and other available sources, of customer's credit and financial standing, and customer grants consent for such investigation.

REGULATIONS (continued)

16. Liability of the Customer

- a. The Carrier shall be indemnified and held harmless by the customer against:
 - i. Claims for libel, slander, harassment, improper use of telecommunications service or facilities on or off customer premises, infringement of copyright, or unauthorized use of any trademark, trade name or service mark arising out of the material, data, information, or other content transmitted over the Carrier's facilities; and
 - ii. Claims for patent infringement arising from combining or connecting the Carrier's equipment or facilities with apparatus and systems of the customer; and
 - iii. All other claims arising out of any act or omission of the customer or any person utilizing the customer's codes, credit cards, debit cards, services, or facilities, with or without the consent or knowledge of the customer.
- b. The customer shall hold the Carrier harmless from and against all claims, demands, losses or liabilities, including, but not limited to, fees and expenses of counsel, arising out of any damage to business or property, or injury to, or death of, any person, occasioned by, or in connection with, any act or omission of the customer or of any person utilizing the customer's codes, credit cards, debit cards, centrex, services, equipment, or facilities, with or without the consent or knowledge of the customer.

REGULATIONS (continued)

17. Local Charges

In certain instances, customer may be subject to local telephone company charges or message unit charges to access the Carrier's terminal. Carrier is not responsible for any such local or message unit charges incurred by customer in gaining access to Carrier's terminal.

18. [Reserved]

19. Quarterly Payment Plan

The carrier shall offer any residential subscription customer, sixty-two years of age or older, a plan for payment on a quarterly basis of charges for service rendered, provided that such customer's average annual billing, as projected from at least one full year's experience as a customer of carrier, or based on estimates of future use in the case of a new customer, is not more than \$150.

D. RATES AND CHARGES

1. Time Periods Defined

a. Reserved

b. Interstate InterLATA Toll Calls

Day 8:00 a.m. - 5:00 p.m. Mon-Fri

Evening 5:00 p.m. - 11:00 p.m. Sun-Fri

Night/Weekend 11:00 p.m. - 8:00 a.m. all days

8:00 a.m. - 11:00 p.m. Saturday/Holidays

8:00 a.m. - 5:00 p.m. Sunday

c. Reserved

d. Holidays are Christmas; New Year's Day; Thanksgiving;
Independence Day; Labor Day; and such other days as may be
designated by carrier.

RATES AND CHARGES (cont'd)

2. Regulations and Computation of Mileage

a. Private Line Mileage

Rates and Mileage will be specified in contracts with customers.

b. Toll Mileage

Toll call mileage will be rated using the "V&H" method of determining airline mileage as set forth in the NATIONAL EXCHANGE CARRIER ASSOCIATION FCC TARIFF NO. 4.

RATES AND CHARGES (continued)

3. Property Service Charges

In addition to the rates for services and facilities contained herein, Carrier may also collect on behalf of the owner or lessee of the premises from which a call originates, such as hotels, hospitals, nursing homes, transportation terminals, etc, or the owner of telephone equipment used to originate a call, such as a COCOT, a service charge established by such owner or lessee, provided that notice of said service charge shall first be given to customers.

5. Provision of Facilities and Services to Providers of Telephone Service

In lieu of the rates otherwise applicable under these Terms and Conditions, telephone companies certified by the New York State Public Service Commission may elect to enter into contracts with the carrier for the purchase and resale of services and facilities. The terms of said contracts may take into consideration the length of the contract, costs of providing service, traffic patterns and volumes, services provided by such carriers, and other relevant factors. Except as otherwise provided, all other terms, conditions and regulations of these Terms and Conditions shall be applicable to service provided pursuant to said contracts, and shall be incorporated by reference therein.

6. Special Pricing Arrangements

Customized service packages and competitive pricing arrangements at negotiated rates may be furnished on a case-by-case basis in response to requests by customers to the carrier for proposals or for competitive bids. Service offered under this provision will be provided to customer pursuant to contract. Unless otherwise specified, the regulations for such arrangements are in addition to the applicable regulations and prices in other sections of these Terms and Conditions. Specialized rates or charges will be made available to similarly situated customers on a non-discriminatory basis.

RATES AND CHARGES (continued)

7. Affinity Group Programs

- a. The carrier may enter into master account agreements with bona fide firms, organizations or groups to provide service to members thereof, who establish sub-accounts, and the carrier will aggregate the usage of all sub-accounts for purposes of applying usage charges and minimums for such sub-accounts as long as said member remains affiliated with such firm, organization or group. The rates and charges applicable to said sub-accounts shall be set forth in contracts with such bona-fide firms, organizations or groups, or contained in these Terms and Conditions, as indicated. Each sub-account shall comply with all other rules and regulations applicable to the particular rate category. Where recurring charges are set forth for the rate category, such charges shall be applied to each sub-account.

8. Temporary Promotional Programs

The Carrier may establish temporary promotional programs, wherein it may waive or reduce recurring or non-recurring charges, to introduce a present or potential customer to a service not previously received by the customer.

RATES AND CHARGES (continued)

9. Sales. Use and Excise Taxes

In addition to all recurring, non-recurring, minimum, usage, surcharges, property service, or special charges, customer shall also be responsible for and shall pay all applicable federal, state and local sales, use and excise taxes.

10. Reserved

11. [Reserved]

12. Special Assemblies and Customer Arrangements

a. Where service is specifically designed for a single customer, and not generally offered to the public, special assembly charges will apply in lieu of rates and charges set forth in these Terms and Conditions.

b. In cases where a customer requests special arrangements which may include engineering, installation, construction, facilities, assembly, purchase or lease of facilities, equipment, or services available from other common carriers, and/or other services not offered under these Terms and Conditions, the Carrier, at its option, may provide the requested services either directly or by obtaining them from other regulated or non-regulated entities. Appropriate recurring and/or non-recurring charges will be developed accordingly on an individual customer basis.

13. [Reserved]

RATES AND CHARGES (continued)

14. Returned Check Charge

Customers whose payment by check is returned for insufficient funds, or is otherwise not processed for payment, will be subject to a 25.00 charge. Such charge will be applicable on each occasion when a check is returned or not processed.

RATES AND CHARGES (continued)

15. Dedicated Access Lines Connecting Customer's Premises to Carrier's Terminal

Customers may, for specified services, utilize dedicated access lines for the transfer of traffic between the customer's premises and the carrier's terminal, with such lines to be provided by a certified entity other than carrier. Unless otherwise specified in contract, carrier will flow through to customer any charges associated with such lines billed by the certified entity to the carrier or other certified entity will bill customer directly.