



0000033700

# NEW APPLICATION

DOCKET NO. T-03797A-99-0591

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## ARIZONA CORPORATION COMMISSION

AZ CORP COMMISSION  
DOCUMENT CONTROL

CNG COMMUNICATIONS, INC.,

NO. \_\_\_\_\_

APPLICANT

Application for Certificate of Convenience and  
Necessity

John T. Sessions  
Sessions & Company, P.S.  
411 University Street, Suite 1200  
Seattle, Washington 98101-2515  
206.587.4040

1 Introduction

2 CNG Communications, Inc. ("CNG") was incorporated and organized for the purpose of  
3 acquiring and operating microwave transmission towers. It proposes to use these assets to provide  
4 competitive, intrastate telecommunications services in the state of Arizona pursuant to a Certificate of  
5 Convenience and Necessity ("CC&N"). This application has been prepared pursuant to the Arizona  
6 Administrative Code, Title 14, Chapter 2, Section 1104.

7  
8 Description of the Telecommunications Company

9  
10 Earlier this year, CNG acquired certain transmission tower and other telecommunications  
11 equipment from MCI/American Television Relay ("ATR"). For approximately eight years prior to the  
12 acquisition, ATR transported video signals to remote areas of Arizona, California, New Mexico,  
13 Colorado, Nevada and Texas. The ATR network also is used to transmit voice and data from point to  
14 point using the switches of customers. Cable, cellular and mobile data companies collocate on ATR  
15 towers and in its other facilities. Finally, CNG proposes to continue ATR's work as a "turn key"  
16 installer of network equipment.

17  
18 Proper Name and Correct Intrastate Address; Directors and Officers

19  
20 The proper name of the corporation is CNG Communications, Inc. The Arizona address of the  
21 corporation is 4025 North 28<sup>th</sup> Avenue, Phoenix, Arizona 85017. The directors of the corporation and  
22 their addresses are as follows: Peter Lucas, 2001 Sixth Ave., Suite 3302, Seattle, WA 98121; S. Roy  
23 Jeffrey, 17886 55<sup>th</sup> Avenue, Surrey, B.C. V3S 6C8, Canada; and Calvin J. Payne, 2001 Sixth Ave., Suite  
24 3302, Seattle, WA 98121. Mr. Payne is the President of CNG. Mr. Lucas is Vice President, Secretary

25  
26  
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1 and Treasurer of CNG. Mr. Ken Geeslin is Vice President of the company. The address of Mr. Geeslin  
2 is 801 E. Main St., Suite C, Allen, TX 75002.

3  
4 Proposed Tariff

5  
6 The proposed initial tariff of CNG accompanies this application.

7  
8 Geographic Market

9  
10 CNG will not provide dial tone or other "end-user" services to any of its customers. Instead, it  
11 proposes to engage in bulk transport of voice and data through its microwave transmission network  
12 using switching equipment provided by customers. The location of its transmission assets is depicted  
13 on the map following this application.

14  
15 Appropriate City, County and/or State Agency Approvals

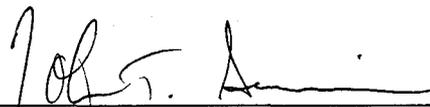
16  
17 Prior to acquisition by CNG of the ATR microwave transmission network, it was operated  
18 successfully by MCI for approximately eight years. To the best knowledge of CNG's executives, there  
19 are no city, county or state approvals required for operation of the system that have not been obtained.

20  
21 Justification for Competitive Status

22  
23 The services CNG proposes to offer are not unique. Many companies already provide DS1 and  
24 DS3 capacity, some using much more advanced equipment with correspondingly higher rates. This  
25 system allows provision of reliable service at a reasonable price. It is particularly useful in serving rural

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1 areas where the market may not warrant the higher capital expenditure associated with fiber optics. The  
2 CNG system will provide a benefit to the telecommunications consumers of Arizona at a competitive  
3 price.

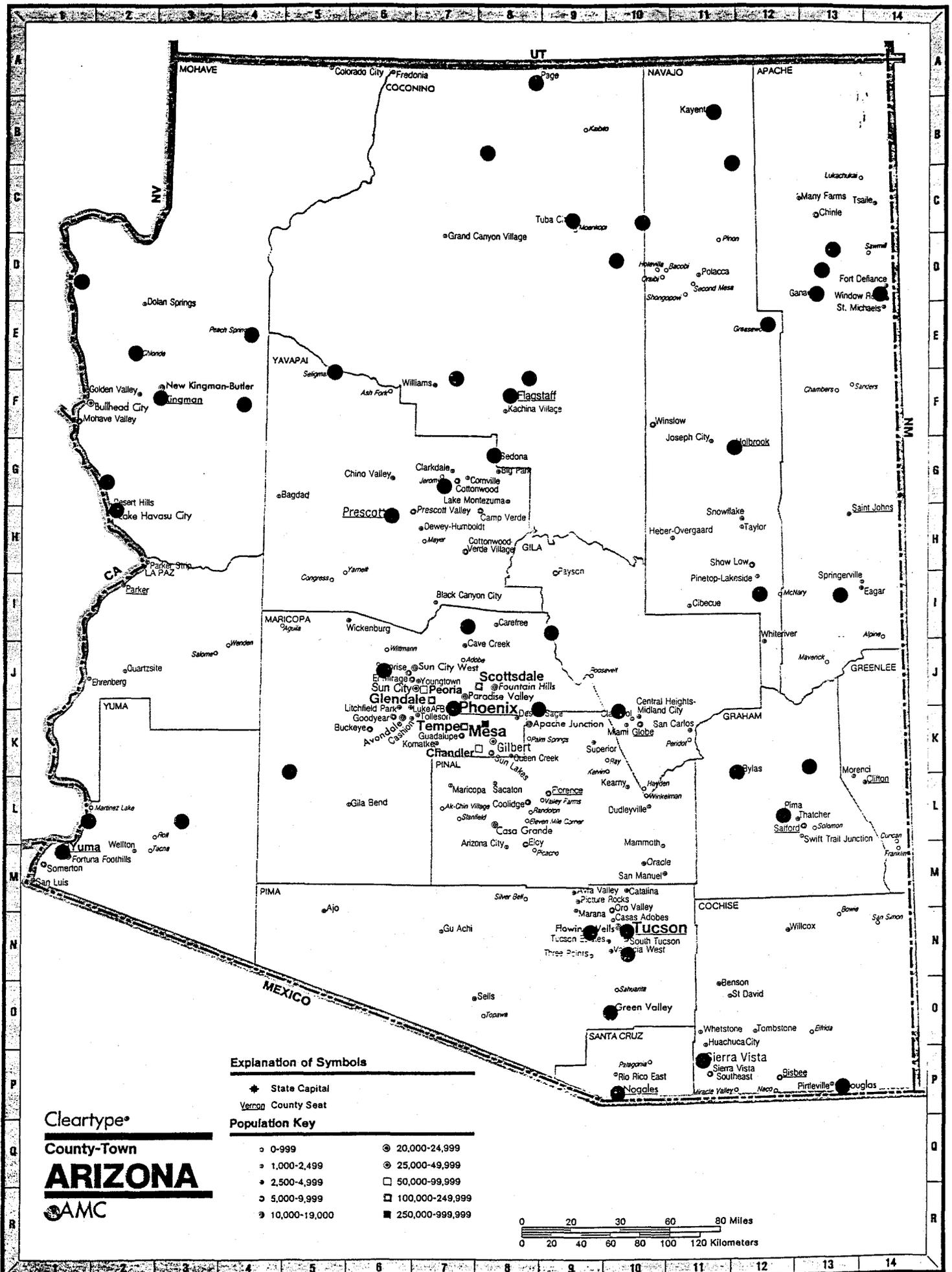


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John T. Sessions, Regulatory Counsel  
September 22, 1999

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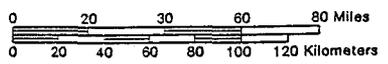
**Explanation of Symbols**

- ★ State Capital
- ☆ County Seat

**Population Key**

- |                 |                   |
|-----------------|-------------------|
| ○ 0-999         | ⊙ 20,000-24,999   |
| ● 1,000-2,499   | ⊕ 25,000-49,999   |
| • 2,500-4,999   | □ 50,000-99,999   |
| ◊ 5,000-9,999   | ◻ 100,000-249,999 |
| ⊖ 10,000-19,000 | ■ 250,000-999,999 |

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 County-Town  
**ARIZONA**  
 AMC



TARIFF SCHEDULE APPLICABLE TO  
INTRASTATE WHOLESALE INTEREXCHANGE SERVICES  
WITHIN THE STATE OF ARIZONA  
BY  
CNG COMMUNICATIONS, INC.

Issued by:

J. John Barker, Esq.  
CNG Communications, Inc.  
2001 Sixth Ave., Suite 3302  
Seattle, WA 98121  
Telephone No. 206.441.0334

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ISSUED: September 22, 1999  
EFFECTIVE: upon approval

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**CHECK SHEET**

The Title Page and pages listed below are inclusive and effective as of the date shown. Revised pages as named below contain all changes from the original Tariff that are in effect on the date shown on each page.

Page #	Revision	Page #	Revision
Title Page	Original*	28	Original*
1	Original*	29	Original*
2	Original*	30	Original*
3	Original*	31	Original*
4	Original*	32	Original*
5	Original*	33	Original*
6	Original*	34	Original*
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25	Original*		
26	Original*		
27	Original*		

\* Indicates tariff pages included in this filing.

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**TARIFF FORMAT**

- A. Page Numbering** – Page numbers appear in the upper right corner of the page. Pages are numbered sequentially. However, new pages are occasionally added to the tariff. When a new page is added between pages already in effect, a decimal is added.
- B. Page Revision Numbers** – Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current page version on file with the Commission. For example, the 4th revised Page 14 cancels the 3rd revised Page 14. Because of the various suspension periods and deferrals the Commission follows in its tariff approval process, the most current page number on file with the Commission is not always the tariff page in effect. Consult the check sheet for the page currently in effect.
- C. Paragraph Numbering Sequence** – There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:
- 2
  - 2.1
  - 2.1.1
  - 2.1.1.A
  - 2.1.1.A.1
  - 2.1.1.A.1.(a)
  - 2.1.1.A.1.(a).I
  - 2.1.1.A.1.(a).I.(i)
  - 2.1.1.A.1.(a).I.(i).(1)
- D. Check Sheets** – When a tariff filing is made with the Commission an updated check sheet accompanies the filing. The check sheet lists the pages contained in the tariff, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (\*). There shall be no other symbols used on this page if these are the only changes made to it. The tariff user should refer to the latest check sheet to find out if a particular page is the most current on file with the Commission.

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**CONCURRING CARRIERS**

None

**CONNECTING CARRIERS**

None

**OTHER PARTICIPATING CARRIERS**

None

**EXPLANATION OF SYMBOLS**

Changes to this tariff shall be identified on the revised page(s) through the use of symbols. The following are the only symbols used for the purposes indicated below:

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

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**APPLICATION OF TARIFF**

This Tariff is available for public inspection during normal business hours at the main office of CNG Communications, Inc., located at 2001 Sixth Ave., Suite 3302, Seattle, WA 98121.

This Tariff contains the rates, terms and conditions of service applicable to the furnishing of the within described intrastate interexchange services by CNG Communications, Inc. This Tariff applies to interexchange services offered by CNG Communications, Inc. to the general public, which, for purposes of this Tariff, consist of providers of Telecommunications Services or Information Services and which are subject to regulation by the Commission. These services are provided in conjunction with the Company's interstate telecommunications services originating or terminating within the state. This Tariff does not apply to the within described services which are provided by CNG Communications, Inc.:

- (a) to other providers of Telecommunications Services or Information Services pursuant to any contractual arrangements that have been or are entered into on an Individual Case Basis pursuant to Section 2.1.7;
- (b) pursuant to other CNG Communications, Inc. tariffs unless specifically stated therein;
- (c) to affiliates of the Company; and
- (d) on an interstate or international basis.

CNG Communications, Inc. does not provide service to, and this Tariff is not applicable to, presubscribed residential customers. CNG's services as specified herein are applicable to carriers only and not End-Users.

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**SECTION 1 - TERMS AND ABBREVIATIONS**

**Access Line** - A facility arrangement which connects Customer's location to Company's POP.

**Access Service Request (ASR)** - An order placed with a Local Access Provider for Local Access.

**Account Code** - A series of digits entered by an End-User to associate a call with a particular department, cost center, or Customer. A non-verified Account Code shall be accepted if it contains the proper number of digits. A verified Account Code shall only be accepted if it can be matched with a number on the list of valid Account Codes provided by an End-User.

**Alternative Access** - A form of Local Access except that the provider of the Service is an entity, other than the Local Exchange Carrier, authorized or permitted to provide such Service.

**Ancillary Charges** - Charges for supplementary Services as set forth in this Tariff which may consist of both nonrecurring and monthly recurring charges.

**Authorization Code** - A numerical code, one or more of which are available to a Customer's End-Users to enable them to access Company's network, and which are used by Company both to prevent unauthorized access to its facilities and to identify End-Users for billing purposes.

**Available/Availability** - Condition in which Company has the facilities necessary to provide Service and such facilities are not already committed to other parties or other Customers and are accessible for Service to Customer, as determined by the Company, in its sole discretion.

**CNG** - Used throughout this tariff to refer to CNG Communications, Inc.

**CNG Network** - The telecommunications transmission system operated by CNG and which is capable of providing Service between CNG designated POPs.

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**SECTION 1 - TERMS AND ABBREVIATIONS (CONT'D)**

**Channel(s) or Circuit(s)** - A communications path between two or more points.

**Commission** - The Arizona Corporation Commission.

**Company or Carrier** - CNG Communications, Inc. unless otherwise clearly indicated by the context.

**Customer** - The natural person or legal entity which orders Service and is therefore responsible for the payment of charges due as a result of using the Service and for compliance with the Company's tariff.

**Day** - From 8 AM up to but not including 5 PM, Monday through Friday.

**Due Date** - The date on which payment is due as indicated on Company's invoice to Customer.

**End-User** - The natural person or legal entity which either; (1) orders service through a CLEC, LEC or other customer of CNG.

**FCC** - Federal Communications Commission.

**Individual Case Basis (ICB)** - Determinations involving situations where nonstandard arrangements are required to satisfy specialized needs. The nature of such Service requirements makes it difficult or impossible to establish general Tariff provisions for such circumstances. When it becomes possible to determine specific terms and conditions for such offerings, they shall be offered pursuant to such terms and conditions when set forth in writing and subscribed to by authorized representatives of Customer and Company. Individual Contract Basis agreements will be developed and submitted to the Commission on a case by case basis in a manner consistent with NMSA 1978, § 63-9A-9 or successor statute.

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**SECTION 1 - TERMS AND ABBREVIATIONS (CONT'D)**

**Information Services** - The term "Information Services" has the same meaning as contained in 47 U.S.C. § 153(20), as interpreted by the FCC and federal courts.

**Installation** - Establishment of Service.

**Interexchange Service** - Service provided to a Customer over a Channel or Circuit between a Company designated POP in one exchange and a Company designated POP in another exchange.

**Local Access** - The portion of the Service between a Customer premise and a Company designated POP.

**Local Access Provider** - An entity providing Local Access.

**Local Exchange Carrier (LEC)** - The local telephone utility that provides exchange telephone services.

**Nonrecurring Charge** - A one-time charge relevant to Service.

**POP (Point of Presence)** - A Company designated location where a facility is maintained for the purpose of providing access to the Company's Services by Customer and/or its End-Users.

**Reseller** - A Customer which purchases Service from the Company through a Service Agreement and resells service to its own End-Users. End-Users of a Reseller are not Customers of the Company. A Reseller must be authorized to operate in the State before it can Resell Services to its End-Users.

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**SECTION 1 - TERMS AND ABBREVIATIONS (CONT'D)**

**Service** - CNG Interexchange Services as described in this Tariff as modified from time to time.

**Service Commitment Period** - The period selected by the Customer, agreed to by Company and stated on the relevant Service Agreement, during which Company will provide and Customer will accept and pay for the Service described therein.

**Service Agreement** - An agreement between Carrier and Customer which, subject to the terms and conditions of this tariff, defines the relationship between Carrier and Customer.

**Service Area** - The geographic area in which Customer or its End-Users may access and use Service.

**Tariff** - The Company's Arizona Intrastate Tariff No. 1, and effective revisions thereto filed by the Company with the Commission.

**Telecommunications Service** - The term "Telecommunications Service" has the same meaning as contained in 47 U.S.C. § 153(46), as interpreted by the FCC and federal courts.

**Term** - Service Commitment Period.

**United States** - For purposes of this tariff the term "United States" includes the Mainland United States of America, Alaska, Hawaii, Puerto Rico, U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands.

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**SECTION 2 - RULES AND REGULATIONS****2.1 Undertaking of Company and Limitations of Services**

- 2.1.1** The Company undertakes to furnish Service pursuant to the terms of this Tariff for the transmission of voice and data originating and terminating within the state. Service under this Tariff is offered only to Company's Customers. Company reserves the right to deny Service: (i) to any Customer that, in Company's reasonable opinion, presents an undue risk of nonpayment; (ii) in circumstances in which Company has reason to believe that the use of the Service would violate the provisions of this Tariff or any applicable law or if any applicable law restricts or prohibits provision of the Service; or (iii) if, in Company's sole opinion, insufficient facilities or equipment are available to provide the Service.
- 2.1.2** The provision of Service shall not create a partnership or joint venture between the Company and Customer nor result in joint service offerings to their respective customers or End-Users.
- 2.1.3** Company owns or operates transmission facilities within the State and/or resells telecommunications services provided by other carriers. Notwithstanding the resale of telecommunications services provided by other carriers, Customer shall be considered a customer of Company, and not a customer of any other carrier.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)**

**2.1 Undertaking of Company and Limitations of Services (cont'd)**

- 2.1.4** Carrier may, when authorized by Customer, act as Customer's agent for ordering dedicated Access Lines or facilities provided by other carriers to allow connection of specified locations of Customer and/or its End-Users to the network of Carrier. Customer shall be responsible for all charges due for such service arrangements.
- 2.1.5** Service is offered subject to the availability of the necessary facilities and subject to the provisions of this Tariff.
- 2.1.6** Service is provided under the terms and conditions of an applicable Service Agreement and this Tariff; and is available twenty-four (24) hours per day, seven (7) days per week.
- 2.1.7** To the extent that any conflict arises between the terms and conditions of a Service Agreement and the terms and conditions of this Tariff, the Tariff shall prevail, except such terms and conditions in a Service Agreement that are expressly set forth therein as ICB terms or conditions, in which case such ICB terms and conditions shall prevail. Such ICB agreements will be developed and submitted to the Commission on a case by case basis in a manner consistent with NMSA 1978, § 63-9A-9 or successor statute.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.1 Undertaking of Company and Limitations of Services (cont'd)**

- 2.1.8** Carrier reserves the right to discontinue furnishing Service, or to limit the use of Service, when necessitated by conditions beyond its control, when Customer or an End-User is using Service in violation of the law or in violation of the provisions of this Tariff, or for non-payment by Customer.
- 2.1.9** Service provided under this Tariff is directly controlled by Carrier, and Customer may not transfer or assign the use of Service, except with the prior written consent of Carrier. Such transfer or assignment shall only apply where there is no interruption in the use or location of Service, and all regulations and conditions contained in this Tariff as well as all conditions for Service, shall apply to all such permitted assignees or transferees.
- 2.1.10** The Customer shall not use nor permit others to use the Service in a manner that could interfere with Services provided to others or that could harm the facilities of the Company or others.
- 2.1.11** Service furnished by CNG may be connected with the services or facilities of other carriers. Customer is responsible for all charges billed by other carriers in connection with the use of Service. Any special equipment or facilities necessary to achieve compatibility between carriers are the sole responsibility of Customer.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.2 Resale of Company Services**

**2.2.1** In addition to the other provisions in this Tariff, a Customer reselling Service shall be responsible for all interaction and interface with its own subscribers or customers. The reselling of Service by a Customer or reselling of Service with enhancements provided by Customer shall not create a partnership or joint venture between Company and Customer nor result in a joint service offering to any third parties by either Company or the Customer.

**2.2.2** Notwithstanding the resale of Service by Customer and regardless of the Company's knowledge of same, the Customer remains liable for all obligations under this Tariff. The Company shall have no liability to any person or entity other than the Customer and only as set forth in Section 2.3.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.3 Liability of the Company**

**2.3.1** Except as otherwise specifically provided for in this Tariff, the Company and/or its affiliates shall not be liable to Customer or any other person, firm or entity for any failure of performance hereunder if such failure is due to any cause or causes beyond the reasonable control of the Company. Such causes shall include, without limitation, acts of God, fire, explosion, vandalism, sabotage, cable cut, storm or other similar occurrence, any law, order, regulation, direction, action or request of the United States government or of any other government or of any civil or military authority, national emergencies, insurrections, riots, wars, condemnation, strikes, lockouts or work stoppages or other labor difficulties, supplier failures, shortages, breaches or delays, or preemption of existing Services to restore Service in compliance with Part 64, Subpart D, Appendix A, of the FCC's Rules and Regulations or other applicable laws, regulations, or orders. The Carrier's liability, if any, for its gross negligence or willful misconduct is not limited by this Tariff.

**2.3.2** The Company is not liable for any act or omission of any other company or companies furnishing a portion of the Service or facilities, equipment, or services associated with such Service.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.3 Liability of the Company (cont'd)**

- 2.3.3** The Customer shall indemnify and hold the Company harmless from and against any court, administrative or agency action, suit or similar proceeding brought against Company and/or any affiliate of the Company for:
- (a) claims arising out of or related to the contents transmitted via the Services (whether over the CNG Network or Local Access facilities) including, but not limited to, claims, actual or alleged, relating to any violation of copyright law, export control laws, failure to procure necessary authorizations, clearances or consents, failure to meet governmental or other technical broadcast standards, or claims that such transmission contents are libelous, slanderous, an invasion of privacy, pornographic, or otherwise unauthorized or illegal;
  - (b) patent infringement claims arising from combining or connecting the Service with equipment and systems of the Customer;
  - (c) all other claims arising out of any act or omission of the Customer in connection with any Service provided by the Company;
  - (d) defacement of, or damage to, the premises of Customer and Authorized Users resulting from the installation, and/or removal of facilities or the attachment of instruments, equipment and associated wiring on or from the Customer's Premises. No agents or employees of other participating carriers shall be deemed to be agents or employees of the Company; and
  - (e) claims arising out of the use of Services or associated equipment in an unsafe manner (such as use in an explosive atmosphere) or the negligent or willful act of any person other than the Company, its agents, or employees.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)**

**2.3 Liability of the Company (Cont'd)**

**2.3.4** The Customer shall indemnify and hold the Company harmless from any and all loss, claims, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party or persons, for any personal injury to, or death of, any person or persons, and for any loss, damage or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly by the installation or operation of Service or equipment and facilities of Company associated with the Service, unless such installation, operation, failure to operate, maintenance, condition, location or use is the direct result of the Company's knowing and willful misconduct.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.3 Liability of the Company (Cont'd)**

**2.3.5** The Company shall not be liable to the Customer or any other person or entity in any respect whatsoever as a result of mistakes, accidents, errors, omissions, interruptions, delays, or defects in Service (collectively "Defects" or "Defective Service"). Defects caused by or contributed to, directly or indirectly, by act or omission of Customer (including authorized users) or Customer's customers, affiliates, agents, representatives, invitees, licensees, successors or assigns or which arise from or are caused by the use of facilities or equipment of Customer or related parties shall not result in the imposition of any liability whatsoever upon the Company, and Customer shall pay to the Company any reasonable costs, expenses, damages, fees or penalties incurred by the Company as a result thereof, including, without limitation, costs of labor and materials. In addition, all or a portion of the Service may be provided over facilities of third parties, and the Company shall not be liable to Customer or any other person, firm or entity in any respect whatsoever arising out of Defects caused by such third parties. COMPANY SHALL NOT BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, ACTUAL, PUNITIVE OR ANY OTHER DAMAGES, OR BUSINESS INTERRUPTION, OR FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER ARISING OUT OF ANY DEFECTIVE SERVICE OR ANY OTHER CAUSE. ANY WARRANTIES AND REMEDIES EXPLICITLY SET FORTH IN THIS TARIFF ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OR REMEDIES, WHETHER EXPRESSED, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN THE EVENT OF AN INTERRUPTION IN SERVICE, ANY DEFECT IN THE SERVICE WHATSOEVER OR A FAILURE TO PERFORM UNDER THIS TARIFF, NEITHER COMPANY NOR ANY THIRD PARTY PROVIDER OR OPERATOR OF FACILITIES EMPLOYED IN THE PROVISION OF THE SERVICE SHALL BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, ACTUAL, PUNITIVE OR ANY OTHER DAMAGES, OR FOR ANY LOST PROFITS OF ANY KIND OR NATURE WHATSOEVER.

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ISSUED: September 22, 1999

DOCKET NUMBER: \_\_\_\_\_

EFFECTIVE: upon approval

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.3 Liability of the Company (Cont'd)**

- 2.3.6** In the event parties other than Customer (e.g., Customer's customers or End-Users) shall have use of the Service directly or indirectly through Customer, Customer shall forever indemnify and hold Company and any third-party provider or operator of facilities employed in provision of the Service harmless from and against any and all claims, demands, suits, actions, losses, damages, assessments or payments which may be asserted by said parties arising out of or relating to any defects or any claims described in this Section.
- 2.3.7** In the event that Company is required to perform a circuit redesign due to inaccurate information provided by the Customer or, Company incurs costs and expenses under circumstances in which such costs and expenses are caused to be incurred by the Customer or reasonably incurred by Company for the benefit of the Customer, the Customer is responsible for the payment of any resulting costs incurred by Company.
- 2.3.8** Customer agrees to defend the Company against the claims as set forth in this Section and to pay all reasonable litigation costs, attorneys' fees, court costs, settlement payments, and any damages awarded or resulting from any such claims.
- 2.3.9** The failure to give notice of default, to enforce or insist upon compliance with any of the terms or conditions herein, the waiver of any terms or conditions herein, or the granting of an extension of time for performance by the Company or the Customer shall not constitute the permanent waiver of any term or condition herein. Each of the provisions shall remain at all times in full force and effect until modified in writing.
- 2.3.10** The above Tariff language (and any and all language which appears in this Tariff addressing liability of Company or its customers) does not constitute a determination by the Commission that a limitation of liability imposed by the Company should be upheld in a court of law. Acceptance for filing by the Commission recognizes that it is a court's responsibility to adjudicate negligence and any direct, indirect, and consequential damage claims. It is also the court's responsibility to determine the validity of the exculpatory clause(s).

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)**

**2.4 Cancellation of Service by Customer**

- 2.4.1 Customers order Service from Company pursuant to the terms and conditions of a Service Agreement. Any cancellation or termination of Service is subject to the terms and conditions of that Service Agreement.
- 2.4.2 If Customer, either on behalf of itself or an End-User, orders Service from the Company which requires special construction of facilities for Customer's or End-User's use, and then cancels its order before Service begins, a charge shall be made to Customer for the non-recoverable portions of the expenditures or liabilities incurred on behalf of Customer or End-User by the Company.
- 2.4.3 If Customer terminates Service prior to the end of the Term specified in the Service Agreement, Customer shall be responsible for all charges incurred to the date of termination, including, but not limited to, all charges to the Company by other carriers for Service provided Customer or its End-Users, and any applicable cancellation or termination charges specified in the Service Agreement.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.5 Cancellation for Cause by Company**

**2.5.1** For nonpayment by Customer of any undisputed sum owing to the Company for more than 30 days, or for violation by Customer of any applicable law or any of the provisions governing the furnishing of Service under this Tariff or the Service Agreement, the Company may, after ten (10) business days' written notification to Customer of such nonpayment or violation and forthcoming termination therefor, without incurring any liability, immediately cancel or discontinue the furnishing of such Service.\* Customer shall be deemed to have canceled Service as of the date of such termination and shall be liable for any cancellation charges as set forth in this Tariff.

\* Customers will be provided written notice stating the reason for the discontinuance within a reasonable time after the suspension or termination of Customer's service.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)**

**2.5 Cancellation for Cause by Company (Cont'd)**

**2.5.2** The discontinuance of Service by Company pursuant to this Section does not relieve the Customer of any obligations to pay the Company for charges accrued for Service which has been furnished up to the time of discontinuance, nor does it relieve the Customer of applicable cancellation charges. The remedies set forth herein shall not be exclusive and the Company shall at all times be entitled to all rights available to it under either law or equity.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.6 Billing and Payment For Service****2.6.1 Responsibility for Charges**

The Customer is responsible for payment of all charges for Services furnished to the Customer for its own account or on behalf of an End-User. This includes payment for Services specifically requested by the Customer. This responsibility is not changed due to any use, misuse, or abuse of the Customer's Service or Customer-provided equipment by third parties, the Customer's employees, or the public. A Customer whose Service has been discontinued for non-payment of bills shall be required to pay any unpaid balance due to Company before Service is restored.

**2.6.2 Payment Arrangements**

**2.6.2.A** All payments due by the Customer shall be remitted and payable to the Company or any billing agent duly authorized and designated by the Company to receive such payments.

**2.6.2.B** Service is provided and billed on a monthly basis. Usage sensitive charges are billed in arrears and fixed monthly recurring charges, if any, are billed one month in advance. Unless required in advance, installation charges, and other non-recurring charges shall be due on the first day of the month following the month in which the Service was provided.

**2.6.2.C** The security of Authorization Codes used by Customer or its End-Users are the responsibility of the Customer. All calls placed using such Authorization Codes or using facilities owned or controlled by Customer or its End-Users shall be billed to Customer and must be paid by Customer.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.6 Billing and Payment For Service (Cont'd)****2.6.3 Late Payment Fee**

Bills are due and payable upon receipt. In the event Customer fails to pay or remit payment in full to the proper address for Services billed by the Company or authorized billing agent on or before thirty (30) days after the Due Date, Customer shall also pay a late fee in the amount of the lesser of one and one-half percent (1.5%) of the unpaid balance per month or the maximum lawful rate of interest.

**2.6.4 Return Check Charge**

A return check charge of \$25.00 will be assessed for checks made payable to the Company and returned for insufficient funds. For service billed on behalf of the Company, any applicable return check charges will be assessed according to the terms and conditions of the Company's billing agent.

**2.6.5 Validation of Credit**

**2.6.5.A** The Company reserves the right to validate the creditworthiness of Customers through available verification procedures. If at any time a Customer presents an undue risk of non-payment, or if a Customer fails to comply with the payment terms of this Tariff or applicable Service Agreement, the Company may require a deposit or other forms of security for payment.

**2.6.5.B** In determining whether a Customer presents an undue risk of nonpayment, the Company may consider, but is not limited to, the following factors: (i) the Customer's payment history (if any) with the Company, (ii) Customer's ability to demonstrate adequate ability to pay for the Service, (iii) credit and related information provided by Customer, lawfully obtained from third parties or publicly available, and (iv) information relating to Customer's management, owners and affiliates (if any).

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)**

**2.6 Payment Arrangements (Cont'd)**

**2.6.7 Disputed Charges**

Disputes with respect to charges must be presented to the Company in writing within one hundred and twenty (120) days from the date the bill in question is issued or such bill shall be deemed to be correct and binding on the Customer. In instances of a dispute, the Customer is required to pay the undisputed portion of the bill in its entirety within thirty (30) days after the Due Date. Resolution of disputes will be governed by the applicable Service Agreement.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.7 Taxes and Fees**

- 2.7.1** Service may be subject to State and/or local taxes (e.g., gross receipts tax, sales tax, and municipal utilities tax) and/or fees (e.g., intrastate access charges and contributions to the State universal service program), if Service originates and terminates in the State. An amount equal to such taxes and fees shall be charged to the Customer in addition to the charges stated in this Tariff. All charges related to such taxes and fees shall each be shown as a separate line item on the Customer's monthly invoice.
- 2.7.2** Service shall not be subject to taxes for a given jurisdiction if Customer provides the Company with written verification, acceptable to the Company and to the relevant taxing jurisdiction, that Customer has been granted a tax exemption. Service shall also not be subject to contribution to the State universal service program if Customer provides the Company with written verification, acceptable to the Company and to the Commission, that the Service will be resold by Customer and that the revenues from such resale shall be subject to the State universal service program's contribution requirements.
- 2.7.3** The Company may also include among such fees and surcharges any Primary Interexchange Carrier (PIC) charges charged against the Company by a Local Access Provider, as well as any other Local Access charges charged against the Company for originating or terminating intrastate interexchange communications.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.8 Inspection, Testing and Adjustments**

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

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

**2.9 Terminal Equipment**

Service may be used with or terminated in terminal equipment or communications systems, such as a PBX or key telephone system, provided by Customer or its End-User. Such terminal equipment or communications systems shall be furnished by and maintained at the expense of Customer or its End-User, except as otherwise provided. Customer or its End-User is also responsible for all costs at its premises incurred in the use of Service, including but not limited to equipment, wiring, electrical power, and personnel. When such terminal equipment or communications systems are used, they shall in all respects comply with the generally accepted minimum protective standards of the telecommunications industry as endorsed by the FCC.

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**ISSUED:** September 22, 1999**DOCKET NUMBER:** \_\_\_\_\_**EFFECTIVE:** upon approval

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)**

**2.10 Refunds or Credits for Interruptions in Service**

**2.10.1** No credits or refunds for interruptions of Service shall be made for:

- (a) Interruptions caused by the negligence or willful misconduct (including the provision of inaccurate information) of the Customer or its End-Users.
- (b) Interruptions during any period when the Company or its agents are not afforded access to any Customer premise where Service is originated or terminated.
- (c) Interruptions during any period when the Customer or End-User has released the Service to the Company for maintenance or rearrangement purposes, or for the implementation of Service.
- (d) Interruptions during periods when the Customer elects not to release the Service for testing or repair and continues to use the Service on an impaired basis.
- (e) Interruptions not reported to the Company.
- (f) Interruptions caused by outages or failure of Local Access provided by a Local Access Provider.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)****2.10 Refunds or Credits for Interruptions (Cont'd)**

**2.10.2** It shall be the obligation of Customer to notify Company immediately of any interruption of Service (as defined in the applicable Service Agreement) for which a credit is desired. If Customer reports an interruption in Service to Company and the affected Service is not restored (as defined in the applicable Service Agreement) within two hours of such report, Customer shall, upon request directed to the Customer's designated customer service representative, receive a credit at the rate of 1/720 of the monthly recurring charges applicable to Service directly affected by such interruption for each hour or fraction thereof, over the initial two hours, during which service is interrupted. No credit will be given for interruptions of less than two hours in duration. The formula used for computation of credits is as follows:

$$\text{Credit} = A/720 \times B$$

A = Interruption time in hours or fraction thereof (must be over 2 hours)

B = total monthly recurring charge for the affected service.

**2.10.3** Notice of interruption should be reported by the Customer to the Company's network control center or other location designated by Company. An interruption ends when the Service is restored. If the Customer reports the Service to be inoperative but declines to release it for testing and repair, the Service shall be deemed to be impaired, but not subject to an interruption nor corresponding credit as provided in Section 2.10.2.

**2.10.4** If the Customer elects to use another means of transmission during the period of interruption, the Customer is solely responsible for payment of the charges for the alternate transmission service used.

**2.10.5** The credit provided in Section 2.10.2 is Customer's sole and exclusive remedy for any interruption in the Service.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)**

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**2.11 Systems Security**

**2.11.1** Where Customers are permitted access to the Company's computer systems and data (hereinafter "Systems") for the purposes of managing and maintaining their own telecommunications system, they will adhere to the following:

- (a) Customers may access the Company's Systems only to the extent required by and incident to the administration and management of the Customer's telecommunications system.
- (b) Customers may not disclose or use information which may be learned as a consequence of access to the Company's Systems except as may be directly required to insure the proper operation of the Customer's telecommunications system. Customers must take all reasonable precautions to prevent any other person or entity who does not have a need to know from acquiring such information.
- (c) Customers shall not in any manner or form disclose, provide, or otherwise make available, in whole or in part, these Systems, documentation, any related material or any other confidential material except to those who have a need to know incident to the operation of the Customer's telecommunications system. These Systems remain the property of the Company and may not be copied, reproduced or otherwise disseminated without the prior written permission of the Company.
- (d) Customers shall take all reasonable precautions to maintain the confidentiality of Systems. Such precautions shall include the use of Personal Identification Numbers (PINS) and passwords selected by and known only to the Customer's individual authorized users. Telephone numbers and dial-up access numbers assigned to the Customer by Company, PINs or any aspect of access and sign-on methodology used to access these Systems shall not be posted or shared with others under any circumstances. Customers shall follow normal log-off procedures prior to leaving a terminal unattended. Customers shall report any known or suspected unauthorized attempt by others to access these Systems.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)**

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**2.11 Systems Security (Cont'd)**

**2.11.2** In the event that a security access device assigned to a Customer for dial-up access is lost, stolen, or misplaced, the Customer must notify Company immediately. Access into these Systems beyond that authorized may result in civil and/or criminal penalties.

**2.12 Restoration of Service**

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

**2.13 Company Provided Equipment**

**2.13.1** Customer agrees to operate any Company equipment in accordance with instructions of the Company or the Company's agent or designee. Failure to do so shall void any Company liability for interruption of Service and may make Customer responsible for damage to equipment pursuant to Section 2.13.2 below.

**2.13.2** Customer agrees to return to the Company all Company-provided equipment within five (5) days of termination of the Service in connection with which the equipment was used. Said equipment shall be in the same condition as when delivered to Customer, normal wear and tear excepted. Customer shall reimburse the Company, upon demand, for any costs incurred by the Company (e.g., the cost of the equipment) due to Customer's failure to comply with this provision.

**2.13.3** The Company may substitute, change or rearrange any equipment or facility at any time, but shall endeavor to maintain the technical parameters of the service provided the Customer. In the event that technical parameters change as a result of the Company's actions, the Company will provide the Customer with thirty (30) days' notice prior to such change.

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**SECTION 2 - RULES AND REGULATIONS (CONT'D)**

**2.14 Other Terms and Conditions**

- 2.14.1 A Customer shall not use any service mark or trademark of the Company or refer to the Company in connection with any product, equipment, promotion, or publication of the Customer without prior written approval of the Company.
- 2.14.2 In the event suit is brought or an attorney is retained by the Company to enforce the terms of this Tariff, the Company shall be entitled to recover, in addition to any other remedy, reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith including the costs and expenses incurred in an appeal.
- 2.14.3 Company, when acting at the Customer's request and/or as Customer's authorized agent, shall make reasonable efforts to arrange for special Service requirements such as the provision of off-net circuits. Due to the specialized nature of such an arrangement, however, such arrangements shall be provided pursuant to an ICB.

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**SECTION 3 - DESCRIPTION OF SERVICE****3.1 General**

CNG undertakes to offer and provide wholesale interexchange telecommunications services within its Service Area to Customers for resale to their End-Users or to other Telecommunications Service providers or Information Service providers. These Services include intrastate and interstate voice and data services.

**3.2 Wholesale Service Offerings**

Applicable rate schedules for wholesale services are provided in Section 4. Dedicated Access Lines may be required to connect Customer to Company's POP. Such dedicated Access Lines, when required, shall be the sole responsibility of Customer. Notwithstanding such responsibility, Company shall, upon Customer's request, order such dedicated Access Lines on behalf of Customer or its End-Users, and shall invoice Customer for all related recurring and non-recurring charges. Intrastate rate plans are tied to specific interstate and international rate plans.

"CNG Bulk Transmission Service" offers Customers point-to-point routing capability via dedicated microwave POPs. With this Service, the Customer can choose CNG to transport and terminate certain traffic to Customer-controlled facilities. The rates for CNG Bulk Transmission Service are dependant upon the distance between Company POPs used for the transmissions. The rates for CNG Bulk Transmission Service are set forth in Section 4.

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**ISSUED:** September 22, 1999**EFFECTIVE:** upon approval**DOCKET NUMBER:** \_\_\_\_\_

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**SECTION 3 - DESCRIPTION OF SERVICE (CONT'D)****3.3 Terms and Conditions**

**3.3.1** Services will be provided if the Customer agrees to each of the following points that are applicable:

- (A) Secure and maintain all necessary state certifications, tariffs, and comply with the rules and regulations as set forth by the Commission.
- (B) Provide all billing and collection services under its own brand name.
- (C) Provide customer service under its own brand name.
- (D) Secure and maintain a signed copy of the "letter of agency" from the End-User which defines the relationship between the End-User and the Customer.
- (E) Assume all responsibility for disputes and complaints with the Local Exchange Carrier.
- (F) Use its own product names which do not identify CNG products.
- (G) Use the CNG name only in post-sale communications which inform its subscribers that CNG is the underlying carrier and that the CNG name may appear on copies of their local phone bills using specific language authorized by CNG.
- (H) The End-User is the customer of Customer, not CNG.
- (I) Assume all risk for bad debt.
- (J) Accept responsibility for all Ancillary Charges.
- (K) Accept responsibility for all interaction and interface with its own subscribers or customers.

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**SECTION 3 - DESCRIPTION OF SERVICE (CONT'D)**

**3.3 Terms and Conditions (cont'd)**

**3.3.2** The minimum Term for Service is one (1) year, except where special construction is requested in which case the minimum Term may be longer.

**3.3.3** Service is available twenty-four (24) hours a day, seven (7) days a week.

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**SECTION 4 - RATES AND CHARGES****4.1 General**

Other than the charges indicated, there are no installation or other nonrecurring charges or monthly recurring charges for Service. Installation charges and/or monthly recurring charges associated with the use of dedicated Access Lines ordered by Carrier on behalf of Customer or its End-Users are not the responsibility of Company.

**4.2 Wholesale Service Rates**

Circuit Type	Circuit Mileage	Monthly Charge
DS1	0 - 50	\$300
	51 - 100	\$600
	101 - 150	\$900
	151 - 200	\$1,200
	201 - 250	\$1,500
	251 - 300	\$1,800
DS3	0 - 50	\$2,400
	51 - 100	\$4,800
	101 - 150	\$7,200
	151 - 200	\$9,600
	201 - 250	\$12,000
	251 - 300	\$14,400
DS1 Installation Fee		\$338
DS3 Installation Fee		\$738

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**SECTION 4 - RATES AND CHARGES (CONT'D)**

**4.2 Wholesale Service Rates (cont'd)**

Per Site Collocation Compensation Charges

Antenna Collocation	Per Antenna	\$50.00 per diameter foot per month
Building Collocation	Per Site – First Two Racks	\$150.00 per month
	Per Site – Per Additional Racks	\$50.00 per month
Site Collocation	Per Site – Outdoor Cabinet	\$100.00 per month
Additional Charges	Customer will pay any additional costs charged directly to the Transmission Division of CNG Communications, Inc., as a result of Customer's collocation at CNG's premises.	

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**SECTION 5 - CONTRACTS AND PROMOTIONS****5.1 Contracts**

At the option of Company, Service may be offered on an ICB basis to meet the specialized requirements of Customers. The terms of each such ICB arrangement shall be mutually agreed upon between the Customer and Company and may include discounts off of the rates contained herein, waiver of recurring or nonrecurring charges, charges for specially designed and constructed services not contained in this Tariff, or other customized features. The terms of such an ICB arrangement may be based partially or completely on a Term or volume commitment, type of originating or terminating access, mixture of services or other distinguishing features. Such ICB arrangements will be available to all similarly situated Customers for a fixed period of time following the initial offering to the first ICB Customer as specified in each ICB contract, subject to, in the Company's sole discretion, the Availability of facilities.

**5.2 Promotions**

**5.2.1** From time to time, Company may, at its option, promote subscription or stimulate Service usage by offering to waive or reduce some or all of the nonrecurring or recurring charges for the Customer (if eligible) for a limited duration. Such promotions shall be made available to all similarly situated Customers in the target market area and will comply with all applicable Commission regulations. In no case shall the resulting rates and charges exceed the rates and charges listed in this tariff for the same services.

**5.2.2** From time to time, subject to Commission rules, Company may demonstrate Service for potential Customers by providing free use of its Services on a limited basis for a period of time, not to exceed one (1) month. Demonstration of Service and the type, duration or quantity of Service provided shall be at the Company's discretion.

**5.2.3** Promotional and other credits offered by Company in marketing its Services cannot be assigned. Such credits must be used by the Customer to whom they were offered or the Customer who earned them under the provisions of the offer.

**5.2.4** Company will provide the Commission with a five (5) day written notice prior to implementing any promotional offering. Promotional offerings will have a maximum duration of ninety (90) days.

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ISSUED: September 22, 1999

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