

ACCESS SERVICE

RATES, RULES AND CHARGES

Title Page and Pages 1 to 22-45, inclusive of this tariff are effective as of the date shown. Original and revised pages as named below and Supplement No. 7 contains all changes from the original tariff that are in effect on the date hereof.

CHECK SHEET

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* New or Revised Page

Issuing Officer: Patrick Doherty, Director - Regulatory
 Four AT&T Plaza, Room 902, 311 S. Akard St., Dallas, TX 75202

(This page filed under Transmittal No. 288)

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(This page filed under Transmittal No. 288)

Issued: January 28, 2016

Effective: January 29, 2016

Four AT&T Plaza, Dallas, Texas 75202

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⁽¹⁾ Material in this Section has been de-tariffed as required by the Commission upon use of the forbearance relief pursuant to FCC Memorandum Opinion and Order No. 07-180, released October 12, 2007. Terms and Conditions associated with de-tariffed services are available at www.att.com/guidebook.

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23. Pricing Flexibility Contract Offerings (N)

23.37 Contract Offer No. 37 - Access Service Offer

23.37.1 General Description (N)

This Special Access Service Offer (Contract Offer No. 37) is a Spend Plan for which concurrent subscription is required to this Contract Offer and the following Contract Offers: Ameritech Operating Companies (Ameritech) Tariff F.C.C. No. 2, Contract Offer No. 223; Pacific Bell Telephone Company (PBTC) Tariff F.C.C. No. 1, Contract Offer No. 173; BellSouth Telecommunications, LLC (BellSouth) Tariff F.C.C. No. 1, Contract Offer No. 88; and Southwestern Bell Telephone Company (SWBT) Tariff F.C.C. No. 41, Contract Offer No. 193 (collectively, with this Contract Offer No. 37, Concurrently Subscribed Contract Offers). Ameritech, PBTC, BellSouth and SWBT, with Nevada Bell Telephone Company ("Telephone Company") shall be identified herein as, collectively, the "Qualified Companies." (Nx)

Subject to the Terms and Conditions set forth elsewhere in this Contract Offer No. 37 and the other Concurrently Subscribed Contract Offers, the Concurrently Subscribed Contract Offers allows eligible Customers to earn credits based upon its level of Spend-Eligible Charges ("Spend"), as defined in the Concurrently Subscribed Contract Offers. The Spend calculation reflects certain recurring revenue from, in the aggregate, all Spend-Eligible Services purchased from the Telephone Company, as set forth in in this Contract Offer No. 37, and certain services purchased from the other Qualified Companies, as set forth in the other Concurrently Subscribed Contract Offers. Contract Offer No. 37 will be available for subscription only from January 29, 2016 through February 28, 2016. This offer is not renewable. (N)

23.37.2 Subject and Non-Subject Services

"Spend-Eligible Services" consist of both Subject Services, listed in Table A, below, and Non-Subject Services, listed in Table B, below, provided by the Telephone Company and located within the operating territory of the Telephone Company, as described in NBTC Tariff F.C.C. No. 1, Section 17 (Operating Territory), except that in no event shall any services connecting to cell sites, mobile telecommunications switching offices (MTSOs), or mobile switching centers (MSCs) be considered Spend-Eligible Services. Spend-Eligible Charges include charges for Spend-Eligible Services that were in service as of the Subscription Date, as well as those placed in service during the Term Period. (N)

x - Issued under the authority of Special Permission No. 16-001 of the F.C.C.

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)

23.37.2 Subject and Non-Subject Services (Cont'd)

(A) Subject Services

Subject Services are pricing flexibility qualified access services or rate elements listed in Table A, below. Subject Services are subject to all rates, terms and conditions of this Contract Offer.

Table A - Subject Services as referenced in 23.37.4 (A).

Category	Services Included
Interstate Special Access located in Pricing Flexibility Metropolitan Statistical Areas (MSAs)	All Voice Grade (VG), DS0, DS1 and DS3 special access services or rate elements that are eligible for pricing flexibility

(B) Non-Subject Services

Non-Subject Services are listed in Table B, below. Non-Subject Services are included in Spend calculations, but are not otherwise subject to the rates, terms or conditions of this Contract Offer No. 37.

Table B - Non-Subject Services

Category	Services Included
Interstate Special Access Services provided by the Telephone Company but not located in Pricing Flexibility Metropolitan Statistical Areas (MSAs) and any rate elements located in Pricing Flexibility MSAs but not subject to pricing flexibility relief.	Any VG, DS0, DS1, and DS3 special access services and rate elements not listed in Table A
Intrastate Special Access	Intrastate services equivalent to the interstate services listed above as either Subject Services or Non-Subject Services

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.2 Subject and Non-Subject Services (Cont'd)

- (C) All terms and conditions for those Spend-Eligible Services that are tariffed are governed by their respective tariff sections, except as otherwise provided in this Contract Offer No. 37. All terms and conditions for those Spend-Eligible Services that are not tariffed are governed by the applicable guidebooks, service guides or contracts.
- (D) No service purchased by Customer, or any of its Qualifying Affiliates, for the provision of Wireless Telecommunications Services, shall constitute a Subject Service or Non-Subject Service under this Contract Offer No. 37.
- (E) Subject Services and Non-Subject Services shall also include any additional similar or successor services which are subsequently provided by the Telephone Company and were not available as of the effective date of this Contract Offer No. 37.

23.37.3 Definitions

As used in this Contract Offer No. 37,

- (A) "Affiliate" means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term "own" means to own an equity interest (or the equivalent thereof) of more than 10 percent.
- (B) A "Permitted Successor" is a successor-in-interest to the Customer or a Qualifying Affiliate that is itself an Affiliate of Customer.
- (C) A "Qualifying Affiliate" means any Customer Affiliate (as Customer Affiliates exist on the Subscription Date) that meets any of the following:
 - (1) is a telecommunications carrier under applicable federal or state law; or
 - (2) has an assigned ACNA; or

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.3 Definitions (Cont'd)

(C) (Cont'd)

(3) is purchasing for resale or using an input into another service being offered or otherwise provided to non-Affiliates (a) any of the services in Table A or Table B, above, or (b) any interstate broadband services provided by any of the Qualified Companies;¹ or

(4) is a customer of record with any of the Qualified Companies for (a) any of the services in Table A or Table B, above, or (b) any interstate broadband services provided by any of the Qualified Companies.

(D) "Term Month" means a full calendar month during the Term Period. However, except the partial month from the Subscription Date until the end of the calendar month in which the Subscription Date occurs, the partial month at the start of a Measuring Period and the partial month at the end of the Measuring Period will each be a Term Month.

(E) "Wireless Telecommunications Services" means wireless radio services, whether fixed or mobile, and are subject to regulation on a common carrier basis under federal law.

¹ Interstate OCN PTP, DSRS, GigaMAN,® DecaMAN,® OPT-E-MAN®, BellSouth Metro Ethernet Service, AT&T Switched Ethernet, WaveMAN, BellSouth Wavelength Service, BellSouth Wavelength Dedicated Ring Service, BellSouth Wavelength Channel Service, and AT&T Dedicated Ethernet services are now provided on a contractual basis outside of the tariff, including all terms and conditions. As required by the Commission, to allow the Telephone Company to take advantage of the relief granted in the Commission's Memorandum Opinion and Order No. 07-180 released October 12, 2007, services have been de-tariffed by the Telephone Company. Rates, terms and conditions associated with de-tariffed services are available at www.att.com/guidebook and <http://cpr.att.com/pdf/commonEthServGuide.html>.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)

23.37.4 Eligibility Criteria

The following Eligibility Criteria apply to this Contract Offer No. 37:

- (A) Contract Offer No. 37 is available for qualified special access services located in the Pricing Flexibility MSAs where the Telephone Company has been granted Phase II pricing flexibility, as listed in NBTC Tariff F.C.C. No. 1, Section 22 and Phase I pricing flexibility in those additional MSAs listed below. During the Term Period of this Contract Offer No. 37, if the Telephone Company is granted pricing flexibility relief in additional MSAs not listed in Section 22 at the time of subscription, the Customer may, at its option, include Subject Services in those additional MSAs as eligible for the discounts under this Contract Offer No. 37.

Phase I - All Rate Elements (Including Channel Terminations):

Reno, NV			
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Phase I - Rate Elements other than Channel Terminations

Non-MSA, NV			
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- (B) During November 2015, the Customer and its Permitted Affiliates must have purchased from the Qualified Companies services included among the Subject Services and Non-Subject Services under this Contract Offer No. 37 and under the other Concurrently Subscribed Contract Offers, which services must have resulted in charges equivalent to those included in the Spend-Eligible Charges (as defined in the Concurrently Subscribed Contract Offers) in an aggregate amount of not less than \$13,750,000 and not greater than \$15,250,000.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.4 Eligibility Criteria (Cont'd)

- (C) At the end of November, 2015, the Customer and its Qualifying Affiliates must have had in-service with the Qualified Companies all of the following:
- (1) no fewer than 47,000 interstate DS1 special access services with a local channel but no more than 52,000 interstate DS1 special access services with a local channel, that would qualify as Spend-Eligible Services, and
 - (2) no fewer than 2,200 interstate DS3 special access services with a local channel or multiplexers used with Interstate DS1 special access services but no more than 2,500 interstate DS3 special access services with a local channel or multiplexers used with Interstate DS1 special access services, that would qualify as Spend-Eligible Services.
- (D) Neither Customer nor its Qualifying Affiliates can be a provider of Wireless Telecommunication Services.
- (E) As of the Subscription Date, neither the Customer nor its Qualifying Affiliates may be purchasing from the Telephone Company interstate or intrastate special access services from the Telephone Company pursuant to any pricing flexibility contract offer intrastate "ICB" contract or other individually negotiated arrangement that includes any minimum volume or revenue commitment, other than any contract offer that will be terminated upon the Customer's subscription to this Contract Offer No. 37.
- (F) The number of special access services channel termination components and local channel components purchased by the Customer and its Qualifying Affiliates from the Qualified Companies must not have decreased from the period from November 2014 through April 2015, inclusive (Period A), to the period from May 2015, through October 2015 (Period B), inclusive, by more than 1.3%. The foregoing will be determined by aggregating the number of in-service components at the end of each calendar month for Period A and comparing that number to the aggregate number of in-service components at the end of each calendar month for Period B.

(N)

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- 23. Pricing Flexibility Contract Offerings (Cont'd) (N)
- 23.37 Contract Offer No. 37 - Access Service Offer (Cont'd) (N)
- 23.37.4 Eligibility Criteria (Cont'd) (N)
 - (G) Concurrently Subscribed Contract Offers. The Customer must concurrently subscribe to the following Contract Offers ("Concurrently Subscribed Contract Offers"): (Nx)
 - NBTC Tariff F.C.C. No. 1, Contract Offer No. 37;
 - PBTC Tariff F.C.C. No. 1, Contract Offer No. 173;
 - SWBT Tariff F.C.C. No. 73, Contract Offer No. 193;
 - Ameritech Tariff F.C.C. No. 2, Contract Offer No. 223; and
 - BellSouth Tariff F.C.C. No. 1, Contract Offer No. 88. (Nx)
- 23.37.5 Terms and Conditions (N)

The following Terms and Conditions apply to this Contract Offer No. 37:

 - (A) Subscription.

To subscribe to Contract Offer No. 37, the Customer must submit a Letter of Subscription (LOS) to the Telephone Company. The LOS must encompass Customer and all of its Qualifying Affiliates, and Customer must include, in the LOS, all Access Customer Name Abbreviations (ACNAs) used by Customer and its Qualifying Affiliates ("Eligible ACNAs"). The Eligible ACNAs must be identical to the ACNAs submitted in each written notice of such subscription submitted for each of the other Concurrently Subscribed Contract Offers. Services ordered or purchased under other ACNAs may not be transferred to, or converted for inclusion under, this Contract Offer No. 37. (N)

x- Issued under the authority of Special Permission No. 16-001 of the F.C.C.

(This page filed under Transmittal No. 288)

Issued: January 28, 2016

Effective: January 29, 2016

Four AT&T Plaza, Dallas, Texas 75202

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.5 Terms and Conditions (Cont'd)(B) Term Period

The term of this Contract Offer No. 37 ("Term Period") shall begin on the date that Customer submits a valid and executed Letter of Subscription (LOS) to the Telephone Company ("Subscription Date"), and shall end on June 20, 2017, subject to an extension as provided in this Section.

This Contract Offer No. 37 and the other Concurrently Subscribed Contract Offers may be extended by Customer for up to one (1) consecutive one-year extension periods by providing the Telephone Company and the other Qualified Companies with written notice of such exercise at least ninety (90) days prior to the then-applicable expiration date of the Term Period. If such notice is not received by such date, the Term Period will end on the following June 20th.

- (C) During the Term Period, the Customer and its Qualifying Affiliates (as each exists on the Subscription Date), in the aggregate, must meet each of the following criteria on the last day of each Measuring Period for purchases of Subject and Non-Subject Services from the Qualified Companies. The Term Period of this Contract Offer No. 37 may not be extended unless the term periods of all of the other Concurrently Subscribed Contract Offers are identically extended.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)

23.37.5 Terms and Conditions (Cont'd)

(C) (Cont'd)

Measuring Period	DS1 Volume Commitment	DS3 Volume Commitment
Period 1 Subscription Date - February 29, 2016	No less than 44,563 in-service interstate and intrastate DS1 channel termination rate elements for local channels being purchased from the Qualified Companies on February 29, 2016.	No less than 2,337 in-service interstate and intrastate DS3 channel termination rate elements for local channels and multiplexers being purchased from the Qualified Companies on February 29, 2016.
Period 2 March 1, 2016-June 20, 2016	No less than ninety percent (90%) of the aggregate number of in-service interstate and intrastate DS1 channel termination rate elements for local channels being purchased from the Qualified Companies on February 29, 2016,	No less than ninety percent (90%) of the aggregate number of the in-service interstate and intrastate DS3 channel termination rate elements for local channels and multiplexers being purchased from the Qualified Companies on February 29, 2016.
Period 3 June 21, 2016-June 20, 2017	No less than ninety percent (90%) of the aggregate number of in-service interstate and intrastate DS1 channel termination rate elements for local channels being purchased from the Qualified Companies on June 20, 2016.	No less than ninety percent (90%) of the aggregate number of the in-service interstate and intrastate DS3 channel termination rate elements for local channels and multiplexers being purchased from the Qualified Companies on June 20, 2016.
Period 4 Optional 1 June 21, 2017-June 20, 2018	No less than ninety percent (90%) of the aggregate number of in-service interstate and intrastate DS1 channel termination rate elements for local channels being purchased from the Qualified Companies on June 20, 2017.	No less than ninety percent (90%) of the aggregate number of the in-service interstate and intrastate DS3 channel termination rate elements for local channels and multiplexers being purchased from the Qualified Companies on June 20, 2017

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.5 Terms and Conditions (Cont'd)

(C) (Cont'd)

- (i) If the DS1 Volume Commitment is not met for any Measuring Period, the Telephone Company will bill, and the other Qualified Companies will bill under the Concurrently Subscribed Contract Tariff Offers, and Customer shall pay, a volume shortfall charge equal to (i) the difference between that Measuring Period's DS1 Volume Commitment less the actual in-service interstate and intrastate DS1 special access circuits ("DS1 Shortfall"), times the number of months in the Measuring Period times \$175.00 (the "DS1 Shortfall Charge"). The DS1 Shortfall Charge billed by each Qualified Company will be in proportion to the number of in-service interstate and intrastate DS1 channel termination rate elements for local channels being purchased from the Qualified Company on the last day of the Measuring Period to the aggregate number of such services being purchase from all Qualified Companies in that date.
- (ii) If the DS3 Volume Commitment is not met for any Measuring Period, the Telephone Company will bill, and the other Qualified Companies will bill under the Concurrently Subscribed Contract Tariff Offers, and Customer shall pay, a volume shortfall charge equal to (i) the difference between that Measuring Period's DS3 Volume Commitment less the actual in-service interstate and intrastate DS3 special access circuits, times the number of months in the Measuring Period times \$650.00 (the "DS3 Shortfall Charge"). The DS3 Shortfall Charge billed by each Qualified Company will be in proportion to the number of in-service interstate and intrastate DS3 channel termination rate elements for local channels and multiplexers being purchased from the Qualified Company on the last day of the Measuring Period to the aggregate number of such services being purchase from all Qualified Companies in that date. (The DS1 Shortfall Charge and the DS3 Shortfall Charge are collectively, the "Volume Shortfalls" and each a "Volume Shortfall".)

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.5 Terms and Conditions (Cont'd)

(C) (Cont'd)

(iii) Failure to pay any Volume Shortfall shall be deemed a material breach of this Contract Offer No. 37.

(iv) If at the end of any Measuring Period, the DS1 Volume Commitment and/or DS3 Volume Commitment have not been met, the Telephone Company shall take into account any valid pending orders for the installation and/or disconnection of interstate and intrastate DS1 or DS3 special access circuits that were submitted and not installed during that Measuring Period in determining any Volume Shortfall.

(v) If any orders taken into account pursuant to Section 23.37.5.C(iv) are cancelled and, as a result, the DS1 Volume Commitment or DS3 Volume Commitment has then not been met for the Measuring Period, Customer will be charged the applicable Volume Shortfall for that Measuring Period.

(D) Credits earned under this Contract Offer No. 37 and the other Concurrently Subscribed Contract Offers shall be applied as described in Section 23.37.6, below, and in the analogous sections of the other Concurrently Subscribed Contract Offers.

(E) Except as provided in Section 23.37.5(F), credits earned under this Contract Offer No. 37 are in addition to, and do not alter, any existing service discounts/term plans available in the Telephone Company's generally applicable tariffs or other Telephone Company contract offers.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd) (N)23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.5 Terms and Conditions (Cont'd)

- (F) Spend-Eligible Services under this Contract Offer No. 37 may not be purchased pursuant to any pricing flexibility contract offer, intrastate "ICB" contract or other individually negotiated tariff or agreement that includes any minimum volume or revenue commitment, other than the Concurrently Subscribed Contract Offers (any such precluded tariffs or agreements hereafter referred to as an "Other Commitment Agreement"), unless the Other Commitment Agreement expressly refers to this Contract Offer No. 37 and expressly permits the Customer to purchase such services subject to this Contract Offer No. 37 and such Other Commitment Agreement. The word "purchase," as used in the foregoing sentence, refers to the Customer or any of its Affiliates obtaining or using any service in exchange for compensation, regardless of when the service was ordered or installed.
- (G) Credits to be provided under this Contract Offer No. 37 will not be issued unless and until the Customer and/or its Qualifying Affiliates have paid all billed charges for Spend-Eligible Services due and owing to the Qualified Companies as of the date the credits are issued (excluding amounts disputed and withheld in accordance with the applicable Qualified Company's dispute process), and are otherwise in material compliance with the Concurrently Subscribed Contract Offers.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.5 Terms and Conditions (Cont'd)

- (H) Subject Services are subject to certain rates, charges and general terms and conditions in other sections of NBTC Tariff F.C.C. No. 1 (Sections 2-General Regulations, 5-Ordering Options for Switched & Special Access Service, and 13-Additional Engineering, Additional Labor & Miscellaneous Services), and such terms and conditions may be modified through the filing of tariff changes at any time during the Contract Term. However, such tariff modifications will not change the Terms and Conditions described in this Contract Offer No. 37.

23.37.6 Credits and Waivers(A) Spend Credits

"Spend-Eligible Charges" means the billed recurring charges, after application of any discounts or credits applicable to those recurring revenues (except those issued under this Contract Offer No. 37), as well as adjustments for overbilling, underbilling and billing dispute settlements for, in the aggregate, the Spend-Eligible Services, which are purchased by and billed to Customer and its Qualifying Affiliates (as each exists as of the Subscription Date) (or their Permitted Successors under the Eligible ACNAs. Spend-Eligible Charges shall specifically exclude the following:

- (1) usage-based charges;
- (2) temporary service charges;
- (3) special construction charges;
- (4) fractional and partial recurring charges;
- (5) customer premise equipment charges;
- (6) charges for services provided by a non-Affiliate third party service provider;
- (7) taxes, surcharges or government-related charges;
- (8) Expanded Interconnection Terminations, Interconnection Tie Pairs or Cross-Connect charges under any Affiliate's Interconnection Agreement;

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.6 Credits and Waivers (Cont'd)(A) Spend Credits (Cont'd)

(9) shortfall and termination charges;

(10) charges for ACNAs for which Customer or a Qualifying Affiliate ceases to become responsible during the term of this Contract Offer No. 37, but only with respect to those charges incurred after Customer or a Qualifying Affiliate ceases to be responsible for such ACNAs; and

(11) charges invoiced outside of the Carrier Access Billing System (CABS).

For each Term Month, subject to Section 23.37.5, the Customer is eligible for a single Spend credit under this Contract Offer No. 37 and the other Concurrently Subscribed Contract Offers. The single Spend credit would be in an amount equal to four percent (4%) times the Spend for such Term Month under this Contract Offer No. 37 and the other Concurrently Subscribed Contract Offers ("Spend Credit").

The Spend Credit will be issued during the third calendar month after the Term Month to which it is attributable and will be divided among the Qualified Companies in proportion to the Spend-Eligible Charges under the Concurrently Subscribed Contract Offers (unless otherwise agreed).

The Spend Credit shall not be posted if the Customer is in material breach of any Concurrently Subscribed Contract Offers No. 37, or Customer or any of its Qualifying Affiliates is in material breach of any other terms and conditions governing the Subject Services, including, without limitation, failure to pay any undisputed amount due for Subject Services, until such breach is cured or payment for undisputed amounts is made by Customer or such Qualifying Affiliate.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.6 Credits and Waivers (Cont'd)(B) Termination Liability, Special Construction and NRC Credits

Starting with Measuring Period 2, the Telephone Company will bill, and the Customer and its Qualifying Affiliates shall pay, the termination liability charges, special constructions and non-recurring charges for DS1, DS3 Subject Services in accordance with the Telephone Company's Tariff F.C.C. No. 1 ("Credit Eligible Charges"). The Telephone Company will issue a credit in the amount equal to such Credit Eligible Charges due from the Customer and its Qualifying Affiliates that are billed in a Measuring Period if, in addition to Customer and its Qualifying Affiliates meeting the other requirements of the Concurrently Subscribed Contract Offers, such DS1 or DS3 Subject Service meets all of the following conditions:

- (1) Such DS1 or DS3 Subject Service was not disconnected by the Telephone Company as a result of a breach of the applicable Tariffs;
- (2) Any such DS1 or DS3 Subject Service must not have received a termination liability credit under another revenue-based or volume-based offer, or otherwise received a waiver of such termination liability charge or other credit in an amount equal to such termination liability charge;
- (3) Customer must be in compliance with all material provisions of this Contract Tariff Offer No. 37, including, but not limited to, the payment of all non-disputed charges by the due date;
- (4) Customer must have met both the DS1 Volume Commitment and DS3 Volume Commitment for the Measuring Period or, alternatively, must have paid any Volume Shortfalls due;
- (5) Such DS1 Subject Service must have been in service for a minimum of thirty (30) days for its early termination charges/liabilities to be eligible for a credit; and

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd) (N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)

23.37.6 Credits and Waivers (Cont'd)

(B) Termination Liability, Special Construction and NRC Credits (Cont'd)

(6) Such DS3 Subject Service must have been in service for a minimum of twelve (12) months for its early termination charges/liabilities to be eligible for a credit;

Credit will not be provided under this Section until any Volume Shortfalls as describe in Section 23.37.6.(4) have been paid, provided that such Volume Shortfalls charges are paid within thirty (30) days after AT&T's notice that the credit is being withheld.

The aggregate amount of the credit for Credit Eligible Charges paid by the Qualified Companies during a Measuring Period will not exceed the following amounts.

Measuring Period	Credit
Period 2	\$668,500
Period 3	\$2,000,000
Period 4	\$2,000,000
Optional 1	

Any credit due under this Section 23.37.6(B) will be issued during the third calendar month after the Measuring Period in which such Credit Eligible Charges were billed. The Telephone Company will calculate the credit amount and notify Customer of the BANS on which these credits will be issued.

Any unused amount of such credit shall not be carried forward to any subsequent Measuring Period, or carried backward to any prior Measuring Period. (N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.7 Assignment/Transfer/Successors

(A) Neither party shall assign or otherwise transfer this Contract Offer No. 37, or its rights or obligations hereunder, to any person or entity without the prior written consent of the other party, which shall not be unreasonably withheld or delayed, provided, however, that Customer shall have the right, without the consent of but with notice to the Telephone Company, to assign or otherwise transfer the entirety of this Contract Offer No. 37 to any Qualifying Affiliate, so long as:

(i) the other Concurrently Subscribed Contract Offers are likewise assigned or otherwise transferred in their entirety to that same Affiliate; and

(ii) that Affiliate otherwise qualifies under this Contract Offer No. 37 and the other Currently Subscribed Contract Offers.

Any assignment or other transfer shall be subject to the other party's rights under this Contract Offer No. 37 and the other Concurrently Subscribed Contract Offers, any assignee or transferee shall continue to perform the assigning or transferring party's obligations under this Contract Offer No. 37, and any assignment or transfer by the Customer shall be subject to the provisions of Section 23.37.7(B), below. Any assignment or other transfer of this Contract Offer No. 37, or the rights or obligations hereunder, or any attempt to do either, in violation of this provision shall be void.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.7 Assignment/Transfer/Successors (Cont'd)

(B) Any proposed assignee or transferee must satisfy the following conditions: (i) the proposed assignee or transferee must demonstrate credit worthiness under both (1) and (2), below (and if (1) and (2) are not applicable to Customer, then (3) shall apply); (ii) neither the proposed assignee or transferee nor its parent may have commenced a voluntary receivership or bankruptcy proceeding (or had a receivership or bankruptcy proceeding initiated against it) at any time during the Term Period, and (iii) the proposed assignee or transferee meets the Eligibility Criteria set forth in Section 23.37.4, above.

(1) Any debt securities of the proposed assignee or transferee or its parent (defined as an entity that owns directly or indirectly more than fifty percent (50%) of the equity of the proposed assignee or transferee) are rated below investment grade, as defined by the Securities and Exchange Commission, or if any debt securities of a proposed assignee or transferee or its parent are rated the lowest investment grade and have been placed on review by the rating organization for a possible downgrade.

(2) The proposed assignee or transferee or its parent does not have any outstanding securities rated by credit rating agencies, e.g., Standard and Poor's, but does have a Dun and Bradstreet rating, and the proposed assignee or transferee is rated:

(a) "fair" or below in a composite credit appraisal published by Dun and Bradstreet;
or

(b) "high risk" in a Paydex score as published by Dun and Bradstreet.

(3) If the information required to review the assignee or transferee's credit worthiness pursuant to either Subsection (1) or (2) of this Section 23.37.7(B) is not available, the Telephone Company shall exercise its reasonable discretion in determining the credit worthiness of the assignee or transferee based on any information available.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd) (N)23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.8 Mergers/Acquisitions and Sales/Divestitures

- (A) Except as provided in Section 23.37.8(B), all provisions of this Contract Offer No. 37 shall continue in full force and in effect notwithstanding any merger or acquisition affecting a party. A merger or acquisition within the meaning of this provision, shall include, without limitation, any transaction in which the party, in whole or in part, merges with, acquires, is acquired by, or sells all or substantially all its stock or assets to any other entity, or purchases all or substantially all stock or assets of another company. Upon the Transaction Close Date of a merger or acquisition, if the entity other than the Customer involved in the merger or acquisition purchases any service from any Telephone Company entity, such service shall not be included in this Contract Offer No. 37 for any purpose. The "Transaction Close Date" shall be defined as the date that the stock purchase is complete and/or the final date on which the assets of the acquired/merged company have been purchased. Purchases by the other entity shall not be part of any calculation hereunder, including, without limitation, as a Spend-Eligible Service, as generating Spend-Eligible Charges, in determining achievement of the requirements of Section 23.37.5(C), or be eligible for any credits under this Contract Offer No. 37.

(N)

(This page filed under Transmittal No. 288)

Issued: January 28, 2016

Effective: January 29, 2016

Four AT&T Plaza, Dallas, Texas 75202

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.8 Mergers/Acquisitions and Sales/Divestitures

- (B) If, during the Term Period, any of the Qualified Companies (or any portion of any of them) is no longer under the control of AT&T Inc. (a "Divested Entity"), then as of the closing date(s) of the relevant transaction(s), any Concurrently Subscribed Contract Offer applicable to a Divested Entity shall be administered and enforced, and any rights or obligations of either party to this Contract Offer No. 37 shall apply separately to: (i) the Telephone Company (or any portion of Telephone Company (if any)) remaining under the control of AT&T Inc., and (ii) the Divested Entity or Entities, after taking into account such relevant transaction(s). In particular, but without limitation, the conditions (as provided in Section 23.37.5(C)) required to qualify for credits under this Contract Offer No. 37 will be pro-rated between any portion of Qualified Companies (or any portion of any of them) remaining under the control of AT&T Inc. (the "Remaining AT&T ILECs"), and the Divested Entity or Entities in proportion to the Circuit Volumes billed by the Remaining AT&T ILECs and by the Divested Entity or Entities at the end of the full calendar month immediately prior to the Transaction Close Date of the relevant transaction(s).

Notwithstanding the foregoing paragraph, nothing in this Section 23.37.8(B) shall prevent the lawful modification or termination of this Contract Offer No. 37 as applicable to the Telephone Company, any portion of Telephone Company (if any) remaining under the control of AT&T Inc., or any Divested Entity or Entities, in accordance with this Contract Offer No. 37 and applicable law and regulation.

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)23.37.9 Effect of Contract Offer No. 37 on Any Grandfathering or Sunsetting of Subject Services or Non-Subject Services

Nothing in this Contract Offer No. 37 shall prevent the Qualified Companies from terminating the provision of Subject Services or Non-Subject Services, in part, or in their entirety, prior to the end of the Term Period, to the extent permitted by applicable law. To the extent that such termination occurs, however, Customer may terminate this Contract without any termination liability charge as described in Section 23.37.10.

23.37.10 Termination

(A) Termination Liability Charge

If, prior to the completion of the Term Period, the Customer terminates this Contract Offer No. 37 or any of the other Concurrently Subscribed Contract Offers for any reason other than material breach by the Telephone Company, or if the Telephone Company terminates this Contract Offer No. 37 as a result of a material breach by Customer or any of its Qualifying Affiliates, then this Contract Offer No. 37 shall be terminated (if not already terminated) and the Customer shall forego (or repay, if applicable), as a termination liability charge, fifty (50%) of the credits and waivers issued or due under this Contract Offer No. 37 during the Measuring Period in which the effective date of termination occurs, up to the effective date of termination.

Customer will pay any termination liability charge due to the Telephone Company within 30 days of the Telephone Company invoice date for such charge, provided, however, that the Customer shall not repay any amount attributable to any such credits or waivers that have not been, or are not, issued by the Telephone Company (and the Telephone Company will not be obligated to issue any such credits which were due but not issued prior to such termination).

(N)

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23. Pricing Flexibility Contract Offerings (Cont'd)

(N)

23.37 Contract Offer No. 37 - Access Service Offer (Cont'd)

23.37.10 Termination

- (B) If any portion of this Contract Offer No. 37 is found to be invalid, unenforceable, or otherwise contrary to applicable law, the Telephone Company or the Customer may, in its respective sole discretion, terminate this Contract Offer No. 37 upon ten (10) days' written notice to the other.

- (C) After a transaction to which Section 23.37.8(B) applies, (i) the termination of this Contract Offer No. 37 solely applicable to any portion of the Telephone Company remaining under the control of AT&T Inc. will not terminate this Contract Offer No. 37 as it applies to any Divested Entity or Entities, and (ii) the termination of this Contract Offer No. 37 solely applicable to any Divested Entity or Entities will not terminate this Contract Offer No. 37 as it applies to any portion of the Telephone Company remaining under the control of AT&T Inc.

(N)

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