

NewPath Holdings, Inc.

**NEUPATH HOLDINGS, INC.  
REGULATIONS AND SCHEDULE OF CHARGES FOR  
LOCAL EXCHANGE SERVICES  
WITHIN THE STATE OF KENTUCKY**

**ILLUSTRATIVE**

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

MAR 09 2000

PURSUANT TO 807 KAR 5:011,  
SECTION 9 (1)

BY: Stephan D. Bell  
SECRETARY OF THE COMMISSION

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Issue Date: February 7, 2000

Docket No.:

Issued by:

Effective Date:

Mick Herke  
Executive Vice President  
NewPath Holdings, Inc.  
11260 Aurora Avenue  
Des Moines, Iowa

## CHECK SHEET

Sheets 1 through 31 inclusive of this tariff are effective as of the date shown at the bottom of the respective sheet(s). Original and revised sheets as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this page.

SHEET	REVISION		SHEET	REVISION
1	Original		26	Original
2	1 <sup>st</sup> Revised		27	Original
3	1 <sup>st</sup> Revised		28	Original
4	Original		29	Original
5	Original		30	Original
6	Original		31	1 <sup>st</sup> Revised
7	Original			
8	Original			
9	Original			
10	Original			
11	Original			
12	Original			
13	Original			
14	Original			
15	Original			
16	Original			
17	Original			
18	Original			
19	Original			
20	1 <sup>st</sup> Revised			
21	Original			
22	Original			
23	Original			
24	Original			
25	Original			

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**MAR 09 2000**

PURSUANT TO 807 KAR 5:011,  
SECTION 9 (1)

BY: Stephan Bue

SECRETARY OF THE COMMISSION  
Effective Date:

Issue Date: March 20, 2000

Docket No.:

Issued by:

Mick Herke  
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MAR 09 2000

PURSUANT TO 807 KAR 5:011,  
SECTION 9 (1)  
CANCELLED BY: *Stephan Bue*  
SECRETARY OF THE COMMISSION  
Effective Date:

DEC 2000

Issue Date: March 20, 2000  
Docket No.:  
Issued by:

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EXPLANATION OF SYMBOLS

Whenever tariff sheets are revised, changes will be identified by the following symbols:

- (C) To signify changed regulation.
- (D) To signify deleted or discontinued rate, regulation, or condition.
- (I) To signify a change resulting in an increase to a customer's bill.
- (M) To signify material moved from or to another part of tariff with no change in text, rate, rule, or condition.
- (N) To signify new rate, regulation, condition, or sheet.
- (R) To signify change resulting in a reduction to a customer's bill.
- (S) To signify change in text but no change in rate, rule, or condition.
- (Y) To signify a reference to other published tariffs.
- (Z) To signify a correction.

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MAR 09 2000

PURSUANT TO 807 KAR 5:011,  
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BY: Stephan O. Bell  
SECRETARY OF THE COMMISSION

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Issue Date: February 7, 2000  
Docket No.:  
Issued by:

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TARIFF FORMAT

- A. Sheet Numbering - Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between sheets 14 and 15 would be 14.1.
- B. Sheet Revision Numbers - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current sheet version on file with the Kentucky Public Service Commission. For example, the 4th revised Sheet 14 cancels the 3rd revised Sheet 14. Consult the Check Sheet for the sheet 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 Kentucky Public Service Commission, an updated check sheet accompanies the tariff filing. The check sheet lists the sheets 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 will be no other symbols used on this page if these are the only changes made to it (i.e., the format, etc. remains the same, just revised revision levels on some pages). The tariff user should refer to the latest check sheet to find out if a particular sheet is the most current on file with the Kentucky Public Service Commission.

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SECTION 9 (1)

BY: Stephan Bess  
SECRETARY OF THE COMMISSION

Issue Date: February 7, 2000  
Docket No.:  
Issued by:

Effective Date:

Mick Herke  
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INTRODUCTION

This tariff contains the regulations and rates applicable to the provision of Service by Company.

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SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS

Certain terms used generally throughout this tariff are defined below.

Access Line

An arrangement from a local exchange telephone company or other common carrier using either dedicated or switched access which connects the Customer's location, Company's location or switching center.

Asymmetrical Services

High Speed Digital Connection Services in which the data rates to and from the end-user's premises may differ.

Authorization Code

A numerical code, one or more of which are available to a customer to enable him/her to access the carrier, and which are used by the carrier both to prevent unauthorized access to its facilities and to identify the customer for billing purposes. Automatic numbering identification (ANI) may be used as or in connection with the authorization code.

Called Station

Denotes the terminating point of a call (i.e., the called telephone number).

Company or Carrier

NewPath Holdings, Inc. or its affiliate or subsidiary ("NewPath").

Customer

The person, firm, corporation or other entity which orders service and is responsible for payment of charges due and for compliance with the Company's tariff regulations.

Customer Terminal Equipment

Terminal equipment provided by the customer

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SECTION 1 – TECHNICAL TERMS AND ABBREVIATIONS (cont.)

Day

From 8:00 AM up to but not including 5:00 PM local time at the originating terminal on Monday through Friday.

End-User Premises

A location designated by the Customer for the purposes of connecting to the Company's services.

Evening

From 5:00 PM up to but not including 11:00 PM local time at the originating terminal on Sunday through Friday.

GB

Gigabytes, denoting billions of bytes.

GBps

Gigabytes per second, denoting billions of bytes per second.

High Speed Digital Connection Service

Any data service offered by the company herein or any combination of such services.

Holiday

New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day.

Individual Case Basis

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

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SECTION 1 – TECHNICAL TERMS AND ABBREVIATIONS (cont.)

Kbps

Kilobits per second, denoting thousands of bits per second.

LATA - (Local Access and Transport Area)

A geographic area established as required by the Modified Final Judgment entered in United States v. Western Electric Co., Inc., 552 F. Supp. 131 (D.D.C. 1982) or any other geographic area designated as a LATA in the National Exchange Carrier Association on Tariff FCC No. 4, within which a local exchange telephone company provides communication services.

LEC

Local exchange carrier.

Mbps

Megabits per second, denotes millions of bits per second.

Night/Weekend

From 11:00 PM up to but not including 8:00 AM on Sunday through Friday, and 8:00 AM on Saturday up to but not including 5:00 PM Sunday.

Node

Any Customer or Company location that is capable of performing multiplexing.

OC-n

Optical Carrier-n. A SONET optical signal transmitted at rates of n x 51.840 Mbps. OC-3=155.52 Mbps, OC-12=622 Mbps.

Port

An equipment system or subsystem set aside for the sole use of a specific customer.

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EFFECTIVE  
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SECTION 1 – TECHNICAL TERMS AND ABBREVIATIONS (cont.)

Recurring Charges

Monthly charges to the Customer for services, and equipment, that continue for the agreed upon duration of the service.

Service

Any means of service offered herein or any combination thereof.

Service Order Form

The written request for Company services executed by the Customer and the Company in the format devised by the Company. The signing of a Service Order Form by the Customer and acceptance by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff.

Station

The network control signaling unit and any other equipment provided at the Customer's premises which enables the Customer to establish communications connections and to effect communications through such connections.

Synchronous Optical Network (SONET)

A set of international standards for fiber based transmission systems. SONET defines standard optical carrier transmission rates and utilizes a modular multiplexing signal approach based on the application of Synchronous Transport Signals.

Telecommunications

The transmission of voice communications or, subject to the transmission capabilities of the service, the transmission of data, facsimile, signaling, metering, or other similar communications.

Term Agreement

An agreement between the Company and the Customer for a fixed term of months.

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SECTION 1 – TECHNICAL TERMS AND ABBREVIATIONS (cont.)

Terminal Equipment

Any telecommunications equipment other than the transmission or receiving equipment installed at a Company location.

Transmission Speed

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

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**SECTION 2 - RULES AND REGULATIONS****2.1 Undertaking of the Company**

- 2.1.1 NewPath undertakes to provide Service in accordance with the terms and conditions set forth in this tariff and any Service Agreement executed by the Customer.
- 2.1.2 NewPath installs, operates and maintains the communication services provided hereunder in accordance with the terms and conditions set forth under this tariff. It may act as the customer's agent for ordering access connection facilities provided by other carriers or entities when authorized by the customer, to allow connection of a customer's location to NewPath's network. The customer shall be responsible for all charges due for such service arrangements.
- 2.1.3 The Company's services and facilities are provided on a monthly basis unless ordered on a longer term basis, and are available twenty-four hours per day, seven days per week.

**2.2 Limitations**

- 2.2.1 To the extent that NewPath provides voice services it may provide but is not required to provide the services attendant to basic local telephony including, but not limited to, operator and directory assistance services, special telecommunications services for disabled persons, and 911 emergency services.
- 2.2.2 The rates and regulations contained in this tariff apply only to the services furnished by NewPath and do not apply, unless otherwise specified, to the lines, facilities or services provided by a local exchange telephone company or other common carrier for use in accessing the services of carrier.
- 2.2.3 NewPath reserves the right to discontinue furnishing service, or to limit the use of service necessitated by conditions beyond its control; or when the customer or end user is using service in violation of the law or the provisions of this tariff.
- 2.2.4 Neither customers nor end users may use the services furnished by the carrier in violation of any law or any provision of this tariff.

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2.3 Liabilities of the Company

- 2.3.1 Carrier's liability for damages arising out of mistakes, omissions, interruptions, delays, errors or defects in the transmission occurring in the course of furnishing service, channels or other facilities, and not caused by the negligence of the customers, commences upon activation of service and in no event exceeds an amount equivalent to the proportionate charge to the customer for the period of service during which such mistakes, omissions, interruptions, delays, errors or defects in the transmission occur. For the purposes of computing such amount, a month is considered to have thirty (30) days. The Company will not be liable for any direct, indirect, incidental, special, consequential, exemplary or punitive damages to Customer as a result of any Company service, equipment or facilities, or the acts or omissions or negligence of the Company's employees or agents. No action or proceeding against the Company shall be commenced more than one year after the service is rendered.
- 2.3.2 In no event will Carrier be responsible for consequential damages or lost profits suffered by a customer or end user as a result of interrupted or unsatisfactory service.
- 2.3.3 Carrier is not liable for any act or omission of any other company or companies furnishing a portion of the service. No agents or employees of other carriers or companies shall be deemed to be agents or employees of Carrier.
- 2.3.4 Carrier shall be indemnified and held harmless by the customer or end user against:
  - 2.3.4.A Claims for libel, slander or infringement of copyright arising out of the material, data, information or other content transmitted over carrier's channels or facilities;
  - 2.3.4.B Patent infringement claims arising from combining or connecting carrier-furnished channels with apparatus and systems of the customer; and
  - 2.3.4.C All other claims arising out of any act or omission of the customer or end user in connection with any service provided by carrier.

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2.3 Liabilities of the Company (cont.)

2.3.5 Carrier is not liable for: (a) any act or omission of any entity furnishing the Company or the Company's Customers the facilities or equipment used for interconnection with Company's service; or (b) for the acts or omissions of other common carriers or warehousemen.

2.3.6 Carrier does not guarantee or make any warranty with respect to any equipment provided by it where such equipment is used in locations containing an atmosphere which is explosive, prone to fire, dangerous or otherwise unsuitable for such equipment. The customer indemnifies and holds carrier 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 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, operation, failure to operate, maintenance, removal, presence, condition, location or use of such equipment so used.

2.3.7 Carrier is not liable for any defacement of, or damage to, the premises of a customer resulting from the furnishing of services or the attachment of instruments, apparatus and associated wiring furnished by carrier on such customer's premises or by the installation or removal thereof, when such defacement or damage is not the result of carrier negligence. No agents or employees of other participating carriers shall be deemed to be agents or employees of carrier without written authorization.

2.3.8 Carrier does not presently provide circuit switched telephony and therefore is not liable for not providing any services attendant to a circuit switched basic telephony including, but not limited to, operator and directory assistance services, special telecommunications services for disabled persons, and 911 emergency services.

2.3.9 THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

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PURSUANT TO 807 KAR 5:011,  
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2.4 Interruption of Service

- 2.4.1 Credit allowance for the interruption of service which is not due to the Company's testing or adjusting, negligence of the customer or to the failure of channels or equipment provided by the customer, are subject to the general liability provisions set forth in this tariff. It shall be the obligation of the customer or end user to notify the Company immediately of any interruption in service for which a credit allowance is desired. Before giving such notice, the customer or end user shall ascertain that the trouble is not being caused by any action or omission by the customer within his/her control, or is not in wiring or equipment, if any, furnished by the customer and connected to the Company's facilities.
- 2.4.2 For purposes of credit computation, every month shall be considered to have 720 hours.
- 2.4.3 No credit shall be allowed for an interruption of a continuous duration of less than four hours.
- 2.4.4 The customer shall be credited for an interruption of four hours or more at the rate of 1/720th of the monthly charge for the facilities affected for each hour or major fraction thereof that the interruption continues.

Credit Formula:

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

"A" - outage time in hours

"B" - total monthly charge for affected facility

- 2.4.5 If written notice of a dispute as to charges is not received by the Company within thirty (30) days of the date a bill is issued, such charges shall be deemed to be correct and binding on the customer or end user.
- 2.4.6 The use and restoration of service shall be in accordance with the priority system specified in Part 64, Subpart D of the Rules and Regulations of the Federal Communications Commission.

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2.5 Deposits and Advance Payments2.5.1 Advance Payments

To safeguard its interests, the Company may require a Customer to make an advance payment before services and facilities are furnished. The advance payment will not exceed an amount equal to the non-recurring charge(s) and one month's charges for the service or facility or the highest amount permitted by any applicable Commission regulation. In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated non-recurring charges for the special construction and recurring charges (if any) for a period to be set between the Company and the Customer. The advance payment will be credited to the Customer's initial bill. An advance payment may be required in addition to a deposit.

2.5.2 Deposits

- A. A Customer may be required to make a Service deposit if the Customer has not established its creditworthiness to the satisfaction of the Company. Deposit amounts shall not exceed two-twelfths (2/12) of the Customer's actual or estimated annual bill or the maximum deposit allowable by law or Commission rule. A deposit does not relieve a Customer of the responsibility for prompt payment of bills on presentation. If substantial change in usage has occurred, the Company may require that an additional deposit be made.
- B. To the extent required, the Company will issue to every Customer from whom a deposit is collected a receipt of deposit, showing the Customer's name, location or account number, the date, and the amount of deposit. If deposit amounts change, the Company will issue a new receipt.
- C. To the extent required, interest shall accrue on all deposits at the rate prescribed by law, beginning on the date of the deposit. Interest accrued shall be refunded to the Customer or credited to the Customer's bill on an annual basis, except that the Company shall not be required to refund or credit interest on deposits if the Customer's bill is delinquent on the anniversary of the deposit date. Interest paid or credited to the Customer's bill prior to twelve (12) months from the date of deposit will be prorated. Upon termination of service, the deposit, any principal amounts, and interest earned and owing shall be credited to the final bill with any remainder refunded to the Customer.

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## 2.6 Application for Services

- 2.6.1 A Customer desiring to obtain Service must complete a Service Order Form provided by Company.
- 2.6.2 Cancellation of Service: The Customer may have service discontinued upon written notice to the Company.
- 2.6.3 The Customer's termination liability for cancellation of service shall be equal to:
- A. all unpaid Non-Recurring charges reasonably expended by the Company to establish service to the Customer; plus
  - B. any disconnection, early cancellation or termination charges reasonably incurred and paid to third parties by the Company on behalf of the Customer; plus
  - C. all Recurring Charges specified in this tariff for the balance of the then current term discounted at the prime rate announced in the Wall Street Journal on the third business day following the date of cancellation; minus
  - D. a reasonable allowance for costs, fees, and expenses incurred by the Company as a direct result of the Customer's cancellation.
- 2.6.4 When Customer has signed up for a Term Agreement and cancels prior to fulfilling one-quarter of its requirements under that agreement, it will be responsible for a termination charge of one-half of the payments the Company reasonably expected in fees under the Term Agreement. If a customer fulfills one quarter of its requirements under its Term Agreement but cancels prior to fulfilling one half of its requirements under its Term Agreement, that Customer will be responsible for payment of three-quarters of what the Company reasonably expected in fees under the Term Agreement. If a Customer fulfills one half of its requirements under its Term Agreement with the Company but cancels prior to fulfilling three quarters of its requirements under its Term Agreement, that customer will be responsible for payment of what the Company reasonably expected in fees for fulfillment of the entire Term Agreement.

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## 2.7 Taxes and Surcharges

All state and local taxes (i.e. gross receipts tax, sales tax, municipal utilities tax) are listed as separate line items and are not included in the quoted rates. Surcharges (i.e., all subscriber line charge, etc) approved or mandated by any governmental jurisdiction are listed separately on the bill and are not included in quoted rates.

## 2.8 Responsibilities of the Customer

2.8.1 The customer is responsible for taking all necessary legal steps for interconnecting the customer-provided terminal equipment or communications systems with carrier facilities or services. The customer shall secure all licenses, permits, rights-of-way and other arrangements necessary for such interconnection.

2.8.2 The customer shall ensure that the equipment and/or system is properly interfaced with carrier facilities or services, that the signals emitted into the carrier network are of the proper mode, bandwidth, power and signal level for the intended use of the customer and in compliance with the criteria set forth in this tariff, and that the signals do not damage equipment, injure personnel or degrade service to other customers. If the Federal Communications Commission or some other appropriate certifying body certifies terminal equipment as being technically acceptable for direct electrical connection with interstate communications service, carrier will permit such equipment to be connected with its channels without the use of protective interface devices.

2.8.3 If the customer fails to maintain the equipment and/or system properly, with resulting imminent harm to carrier equipment, personnel or the quality of service to other customers, carrier may, upon 10 days written notice, require the use of protective equipment at the customer's expense. If this fails to produce satisfactory quality and safety, carrier may, upon written notice, terminate the customer's service without liability.

2.8.4 The Customer may not transfer or assign the use of service without the written consent of NewPath.

2.8.5 Carrier offers no exclusion for specific services.

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2.9 Reserved for Future Use2.10 Refusal or Discontinuance by Company

The Company may refuse or discontinue service in the following circumstances. Unless otherwise stated, the Customer will be given ten (10) days' written notice and allowed a reasonable time to comply with any rule or to remedy any deficiency. All notices given shall comply with Commission rules.

- (a) For non-compliance with and/or violation of Company's tariff or any Commission regulations.
- (b) For a dangerous condition relating to the Company's Service that could subject any person to imminent harm or result in substantial damage to the property of the Company or others. In such event, Services may be terminated or refused without notice.
- (c) When a Customer refuses or neglects to provide reasonable access to the premises for installation, operation, meter reading, maintenance or removal of Company property.
- (d) For outstanding indebtedness to the Company for Services furnished or other appropriate charges due.
- (e) For non-compliance with and/or violation of state, local or other codes, rules and administrative regulations relating to or impacting the Company's Service. Company may terminate or refuse service in such event without notice if ordered to terminate or refuse service by a relevant government authority.
- (f) For nonpayment of charges incurred for the Company's Service. In such event, the Company may terminate upon five (5) days' written notice, but, to the extent required, will not terminate Service before twenty (20) days after the mailing date of the original unpaid bill.
- (g) For illegal use or the of Service. In such event, the Company may terminate or refuse Service without advance notice. To the extent required, the Company will send written notification to the Customer of the reason(s) for termination or refusal within twenty-four (24) hours of the termination or refusal, as well as notice of the Customer's right to file a formal complaint with the Commission.
- (h) For any other reason, with or without notice, that is permissible under law.

Issue Date: February 7, 2000  
Docket No.:  
Issued by:

Mick Herke  
Executive Vice President  
NewPath Holdings, Inc.  
11260 Aurora Avenue  
Des Moines, Iowa

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
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BY: Stephan O. Bell  
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2.11 Interconnection

Service furnished by NewPath will be connected with the services or facilities of other carriers. Such service or facilities, if used, are provided under the terms, rates and conditions of the other carrier. The Customer is responsible for all charges billed by other carriers for use in connection with NewPath service.

2.12 Customer Billing Inquiries

2.12.1 For billing of fixed charges, service is considered to be established upon the day on which NewPath notifies the Customer of installation and testing of the Customer's service.

2.12.2 Usage charges will be billed monthly in arrears. Customer will be billed for all usage accrued beginning immediately upon access to the service. Customers will be billed for usage occurring during their specific 30-day billing cycle, which for purposes of computing charges shall be considered a month. The rates charged to a Customer will be the rates in effect on the first day of the Customer's billing cycle.

2.12.3 Monthly charges will be billed in advance of service and reflect the rates in effect as of the date of the invoice. A Customer's first invoice may contain charges from previous periods for service provided from the date of installation through the current invoice period.

2.12.4 Bills are due and payable as specified on the bill. Bills may be paid by mail, in person, electronically via NewPath's website as available, or at the business office of NewPath or an agency authorized to receive such payment. All charges for service are payable only in United States currency. Payment may be made by cash, check, money order, cashier's check, or electronic funds transfer. Customer payments are considered prompt when received by NewPath or its agent by the due date on the bill.

(C) 2.12.5 Bills that remain unpaid beyond the due date on the bill will incur a late payment charge of 1.5% per month -or the maximum permitted by law, whichever is lower - of the outstanding unpaid balance for each month or part of a month that the bill remains unpaid after the specified due date. Additional penalty charges shall not be assessed on unpaid penalty charges.

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
EFFECTIVE

Issued: March 20, 2000  
Docket No.:  
Issued by:

Effective:

MAR 09 2000

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2.12 Customer Billing Inquiries (cont.)

2.12.6 Any customer who has a question regarding his/her telephone bill may contact Mick Herke, NewPath Holdings, Inc. 11260 Aurora Avenue, Des Moines, Iowa 50322, or through a toll-free telephone number provided on Customer bills. Upon receipt of a Customer complaint, the Company shall promptly investigate the matter. To the extent required, the Company shall maintain records of complaints for two (2) years from the date of resolution of a complaint. In the event that NewPath does not resolve an issue to the Customer's satisfaction, the Customer may contact the Telecommunications Division at:

Kentucky Public Service Commission  
730 Schenkel Lane  
Frankfort, Kentucky 40602-0615  
(502) 564-3940 (phone)  
(502) 564-3460 (facsimile)

2.12.7 Dispute Resolution

In general, disputes over the provision of service or disputes regarding billing shall be resolved through arbitration pursuant to the rules of the American Arbitration Association.

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PURSUANT TO 807 KAR 5.011,  
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BY: Stephan O Bell  
SECRETARY OF THE COMMISSION

Issued: February 7, 2000

Docket No.:

Issued by:

Effective:

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2.12.7 Dispute Resolution (cont.)

Billing Disputes

If the customer disputes a bill, the Customer must document its claim to the Company in writing. For purposes of this tariff, the dispute date is the date on which the Customer presents sufficient documentation to support a claim.

2.12.7.1 Sufficient documentation consists of, but is not limited to, the following information, where such information is relevant to the dispute and available to the Customer:

- The nature of the dispute (i.e., alleged incorrect rate, alleged incorrect minutes of use, etc.), including the basis for the Customer's belief that the bill is incorrect;
- The type of usage (i.e., originating or terminating);
- The Company end office where the minutes of use originated or terminated (if applicable);
- The number of minutes in dispute;
- The billing account number(s) assigned by the Company;
- The dollar amount in dispute;
- The date of the bill(s) in question;
- Purchase Order Number (PON) and dates involved (due date or as-of-date) for disputes involving order activity and what the Customer believes is incorrect (e.g., non-recurring charge, mileage, circuit identification) and why they believe it to be incorrect (not received, not ordered, incorrect rate, etc.).
- Any other information necessary to facilitate dispute resolution.

If additional information from the Customer would assist in resolving the dispute, the Customer may be requested to provide this information. This data may include, but is not limited to summarized usage data by time of day. The request for such additional information shall not affect the dispute date established by this section

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MAR 09 2000

PURSUANT TO 807 KAR 5011,  
SECTION 9 (1)  
BY: *Stephan O. Bell*  
SECRETARY OF THE COMMISSION  
Effective:

Issued: February 7, 2000  
Docket No.:  
Issued by:

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2.12.7 Dispute Resolution (cont.)2.12.7.2 Resolution Date

The date of resolution shall be the date on which the Company completes its investigation of the dispute, notifies the Customer of the disposition and, if the billing dispute is resolved in favor of the Customer, applies the credit for the amount of the dispute resolved in favor of the Customer to the Customer's bill, including the disputed amount interest credit, as appropriate.

2.12.7.3 Application of Late Payment Charges and Interest Credits to Disputed Amounts

Any payments withheld pending settlement of the dispute shall be subject to the late payment charges set forth in Section 2.12.5 preceding. The Company will resolve the dispute and assess interest credits or late payment charges to the Customer as follows:

- (a) If the dispute is resolved in favor of the Company and the Customer has paid the disputed amount on or before the payment due date, no interest credits or late payment charges will apply to the disputed amounts.
- (b) If the dispute is resolved in favor of the Company and the Customer has withheld the disputed amount, any payments withheld pending settlement will be subject to the late payment charge set forth in Section 2.12.5.
- (c) If the dispute is resolved in favor of the Customer and the Customer has paid the disputed amount, the Customer will receive a credit from the Company for the disputed amount plus interest at a rate of .0005 percent, compounded daily from the date of payment to the resolution date.
- (d) If the dispute is resolved in favor of the Customer and the Customer has withheld the disputed amount, no interest credits or late payment charges will apply to the disputed amount.

Issued: February 7, 2000  
Docket No.:  
Issued by:

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PUBLIC SERVICE COMMISSION  
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2.13 Claims

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

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

2.14 Reserved for Future Use

2.15 Information to be Provided to the Public

2.15.1 The Company will promptly advise Customers who may be affected of new, revised or optional rates applicable to their service.

2.15.2 Pertinent information regarding the Company's services, rates and charges shall be provided directly to Customers, shall be available for inspection at the Company's local business address or shall be available on NewPath's website.

2.16 Term Agreements

The Company offers Term Agreements wherein the Customer agrees to retain specified volumes of Company services for a mutually agreed upon length of time. A Termination Liability charge applies to early termination of a Term Agreement.

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MAR 09 2000

PURSUANT TO 807 KAR 5:011,  
SECTION 9 (1)

Effective: Stephen O. Sullivan  
SECRETARY OF THE COMMISSION

Issued: February 7, 2000  
Docket No.:  
Issued by:

Mick Herke  
Executive Vice President  
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## 2.17 Service Connections and Equipment on Customer's Premises

- 2.17.1 The Customer shall allow the Company continuous access and right-of-way to the premises of the Customer to the extent reasonably determined by the Company to be appropriate to the provision and maintenance of services and equipment relating to this tariff.
- 2.17.2 The Company undertakes to use reasonable efforts to make available services to a Customer, on or before a particular date subject to the provisions of and compliance by the Customer with the regulations contained in this tariff. The Company does not guarantee availability of facilities by any such date and shall not be liable for any delays in commencing service to any Customer.
- 2.17.3 The Company undertakes to use reasonable efforts to maintain only the services and equipment that it furnishes to the Customer. The Customer may not, and may not permit others to rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any of the services or equipment installed by the Company, except upon the consent of the Company.
- 2.17.4 Title to all components of the service provided by the Company, including equipment on End-User's Premise, shall remain with the Company, unless otherwise specifically agreed with the Customer. The operating personnel, and the electric power consumed by such equipment on the premises of Customer shall be provided by and maintained at the expense of the Customer.
- 2.17.5 Equipment the Company provides or installs at the Customer's premises for use in connection with the services the Company offers shall not be used for any purpose other than that for which the Company provided it.
- 2.17.6 The Company shall not be responsible for the installation, operation, or maintenance of any communications equipment provided by the Customer, except as the Company determines is necessary for proper operation in connection with the Company's services and equipment. Where such equipment is connected to the services or equipment furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of services and equipment offered under this tariff and to the maintenance and operation of such services and equipment; subject to this responsibility the Company shall not be responsible for the transmission or reception of signals by equipment provided by the Customer or for the quality of, or defects in, such transmission or reception.

Issued: February 7, 2000  
Docket No.:  
Issued by:

Mick Herke  
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PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
Effective: EFFECTIVE

MAR 09 2000

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BY: Stephan O. Blay  
MEMBER OF THE COMMISSION

2.17 Service Connections and Equipment on Customer's Premises (cont.)

2.17.7 The Customer shall be responsible for the payment of service charges as set forth herein and for visits by the Company's agents or employees to the premises of the Customer when the service difficulty or trouble report results from the use of services and equipment by the Customer.

2.17.8 The Company is responsible for operating Company-provided equipment. In the event that Customer attempts to operate any Company-provided equipment, other than as authorized by the Company, without first obtaining the Company's approval, in addition to any other remedies of the Company for a breach by the Customer of the Customer's obligations hereunder, the Customer shall pay the Company for any damage to the Company-provided equipment caused or related to the Customer's improper operation of the Company-provided equipment upon receipt by the Customer of a Company invoice therefore. In no event shall the Company be liable to the Customer or any other person for interruption of the service or for any other loss, cost or damage caused or related to the Customer's improper use of Company-provided equipment.

2.17.9 The Customer agrees to allow the Company to remove all Company-provided equipment from Customer's premises:

2.17.9.1 upon termination, interruption or suspension of the service in connection with the equipment was used; and

2.17.9.2 for repair, replacement or otherwise as the Company may determine is necessary or desirable.

At the time of such removal, such equipment shall be in the same condition as when delivered to Customer or installed in Customer's premises, normal wear and tear only excepted. The Customer shall reimburse the Company for any loss, cost, or damage beyond normal wear and tear. The Company shall have the right to obtain such reimbursement from the Customer deposit, if any.

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MAR 09 2000

PURSUANT TO 807 KAR 6:011,  
SECTION 9 (1)

Effective: Richard S. Bell  
SECRETARY OF THE COMMISSION

Issued: February 7, 2000

Docket No.:

Issued by:

Mick Herke  
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2.17 Service Connections and Equipment on Customer's Premises (cont.)

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

2.18 Limitation of Service and Equipment

- 2.18.1 Service is offered subject to the availability of the necessary facilities and/or equipment and subject to the provisions of this tariff. The Company may decline applications for service to or from a location where the necessary facilities or equipment are not available. The Company may discontinue furnishing service in accordance with the terms of this tariff.
- 2.18.2 The Company does not undertake to transmit messages, but offers the use of its service when available, and, as more fully set forth elsewhere in this tariff, shall not be liable for errors in transmission or for failure to establish connections.
- 2.18.3 The Company reserves the right to discontinue service (see subsection 2.11 of this tariff), limit service, or to impose requirements as necessary to meet its legal obligations, or when such obligations have an adverse material affect on the business or economic feasibility of providing service, as determined by the Company in its reasonable judgment.
- 2.18.5 The furnishing of service under this tariff is subject to the availability on a continuing basis of all the necessary facilities, services or equipment and is limited to the capacity of the Company's services and equipment, as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

Issued: February 7, 2000

Docket No.:

Issued by:

Mick Herke  
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Effective:

PUBLIC SERVICE COMMISSION  
OF KENTUCKY  
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PURSUANT TO 807 KAR 50.11  
SECTION 9 (1)  
BY: Stephan O. Berg  
SECRETARY OF THE COMMISSION

**2.19 Non-Routine Installation**

At the Customer's request, installation and/or maintenance will be performed by the Company at additional charges for non-routine situations, including but not limited to, outside regular business hours or in hazardous locations. In such cases, charges based on the Company's customary charges for similar effort and materials will apply. If installation is started during regular business hours but, at the Customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.

**2.20 Maintenance and Testing**

2.20.1 Upon suitable notice, the Company may make such tests, adjustments, and inspections as may be necessary to maintain the Company's services and equipment in satisfactory operating condition.

2.20.2 Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer is complying with the requirements set forth above for the installation, operation, and maintenance of Customer-provided facilities, equipment, and wiring, in the connection of Customer-provided facilities and equipment to Company-provided services and equipment. If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its services, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within ten (10) days of receiving this notice, the Customer must take such action. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of service to protect its services, equipment, and personnel from harm.

2.20.3 NewPath provides its services over lines shared with other service providers. NewPath is only responsible for maintaining and testing on the portion of the line used by NewPath to provision its services.

PUBLIC SERVICE COMMISSION  
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EFFECTIVE

Issued: February 7, 2000  
Docket No.:  
Issued by:

Effective:

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SECTION 3 - DESCRIPTION OF RATES AND SERVICES

3.1 Description of Data Services

- 3.1.1 The Company provides digital connections at a variety of speeds between Customer-designated premises and the Company's multiplexed network. Company's services may be provided using a variety of digital transmission technologies, using the Company's own services and equipment and/or the facilities of others. Service is provided on a 24-hour -per-day, 7-day-per-week, non-dial-up basis. Service may be provided by the Company on an Individual Case Basis (ICB), depending on such factors as length and volume of commitment.
- 3.1.2 Depending on such factors as length of loops involved, quality of loops and other factors, Service may not be available to all Customer or End-User Premises. Special construction charges may apply in each case. In addition to the charges specified for each service, additional charges may apply for transfers of data per month, at certain times in excess of certain thresholds, or for certain billing, monitoring or other services.
- 3.1.3 The Company shall have no responsibility with respect to billing, charges, or disputes related to services used by the Customer which are not included in the Services herein, including, without limitation, any local, regional and long distance services not offered by the Company and any local, regional and long distance services which are provisioned by other common carriers using a line shared with NewPath. The Customer shall be fully responsible for the payment of any bills for such services and for the resolution of any disputed or discrepancies with the applicable service provider.

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EFFECTIVE

MAR 09 2000

PURSUANT TO 807 KAR 5.011  
SECTION 9 (1)  
BY: Stephan O. Bell  
SECRETARY OF THE COMMISSION

---

Issued: February 7, 2000

Docket No.:

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**3.2 Description of Rates and Charges for Data Service**

- 3.2.1 The Company offers rates on a "month to month" basis, and on a Term Agreement contract basis, with rates based on a number of customer factors, including commitment to a volume of service for a fixed term of months.
- 3.2.2 Pricing is structured in two components: a one-time charge for hardware and installation, and a recurring monthly service charge (note: "NA" indicates the service is not available on that basis).

Speed	Type	One-Time Charges	Recurring Monthly Service for Month-to-Month	Recurring Monthly Service for Contract
384 Kbps	Symmetrical	\$300.00	\$190.00	\$180.00
512 Kbps	Symmetrical	\$300.00	\$220.00	\$200.00
768 Kbps	Symmetrical	\$300.00	\$280.00	\$250.00
1.024 Mbps	Symmetrical	\$500.00	\$350.00	\$300.00
384 Kbps 7.0 Mbps	Asymmetrical	\$500.00	\$500.00	\$475.00
DS-1	N/A	\$500.00	\$500.00	\$450.00
DS-3	N/A	N/A	N/A	N/A

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MAR 09 2000

PURSUANT TO 807 KAR 5.011,  
SECTION 9 (1)  
BY: Stephan O. Bell  
SECRETARY OF THE COMMISSION

Issued: February 7, 2000

Docket No.:

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(C) 3.3 Promotional Offerings

The Company may offer special promotions to its Customers waiving certain charges or offering services at special rates. Promotional discounts include but are not limited to reduced monthly rates or charges, incentive subscription bonuses, free Service periods, full or partial waivers of installation charges, or any combination thereof. The maximum length of a promotion will be one hundred and eighty (180) days and may be extended at the Company's discretion. Special promotions will be filed with the Commission with one (1) day notice as required by Administrative Case Number 370.

(D) 3.4 Intentionally deleted

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EFFECTIVE

MAR 09 2000

PURSUANT TO 807 KAR 5:011,  
SECTION 9 (1)  
BY: Stephen D. Bell  
SECRETARY OF THE COMMISSION

Issued: March 20, 2000  
Docket No.:  
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