
COMPETITIVE ACCESS PROVIDER CARRIER

DES Communications Inc
COMPETITIVE ACCESS PROVIDER
Regulations and Schedule of Charges
For Business and Enterprise Customers Only

This Tariff is intended to provide Company definitions, rules and regulations for furnishing competitive access provider services and facilities regarding non-switched telecommunications provided by DES Communications Inc to Customers within the state of Pennsylvania.

Company's tariff is in concurrence with all applicable State and Federal Laws (including, but not limited to, 52 Pa. Code, 66 Pa. C.S., the Telecommunications Act of 1996), and with the Commission's applicable Rules and Regulations and Orders. Any provisions contained in this Tariff that are inconsistent with the foregoing mentioned will be deemed inoperative and superseded.

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CHECK-SHEET

The sheets 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 contain all changes from the original tariff and are in effect on the date shown on the bottom of the page.

<u>SHEET</u>	<u>REVISION</u>
Title	Original
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LIST OF MODIFICATIONS

Reserved for future revisions.

Tariff Page	Tariff Numbering	Existing Rule/Regulation	Modification Being Made

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Symbols

Symbols Revisions to this tariff are coded through the use of symbols. These symbols appear in the right hand margin of the page. The following tariff revision symbols are used for the purposes indicated below.

EXPLANATION OF SYMBOLS

(I) To signify a **increase** in rates

(D) To signify a **decrease** in rates

(C) To signify any other changes

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APPLICATION OF TARIFF

This tariff governs the service offerings, rates, terms and conditions applicable to the furnishing of Competitive Access Provider Services (CAP) by DES Communications Inc. that originate and terminate in Pennsylvania. Specific services and rates are described elsewhere in this tariff. Carrier's services are furnished subject to the availability of facilities and subject to the terms and conditions of this tariff.

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TARIFF FORMAT

Sheet Numbering - Sheet numbers appear in the top right, below tariff number.

Sheets are numbered sequentially. 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.

Sheet Revision Numbers - Revision numbers also appear on top of each page. These numbers are used to determine the most current sheet version on file the PUC.

Paragraph Numbering Sequence - There are 6 levels of alphanumeric coding. Each level of coding is subservient to its next higher level. The following is an example of the numbering sequence suggested for use in tariffs.

2.

2.1

2.1.1.

Check Sheets - When a tariff filing is made, an undated 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 the check sheet 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 PAPUC.

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SECTION 1. TECHNICAL TERMS AND ABBREVIATIONS

1.1 TECHNICAL TERMS and DEFINITIONS

Carrier – DES Communications, Inc.

Common Carrier - An authorized company or entity providing telecommunications services to the public.

Commission - Pennsylvania Public Utilities Commission

Customer – A person, firm, corporation, partnership, governmental agency or other entity, including affiliates or divisions of the Customer, in whose name the telephone number of the Calling Station is registered with the local exchange company. The Customer is responsible for payment of charges to the Carrier and compliance with the Carrier’s regulations.

Day - The period of time from 8:00 a.m. to (but not including) 5:00 p.m., Monday through Friday, as measured by local time at the location from which the Call is originated.

Disconnect - To render inoperable or to disable circuitry thus preventing outgoing and incoming toll communications service.

Evening - The period of time from 5:00 p.m. to (but not including) 11:00 p.m., Sunday through Friday and any time during a Holiday, as measured by local time at the location from which the Call is originated.

Holiday - For the purpose of this tariff recognized New Year's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day.

Individual Case Basis (“ICB”) - Are services provided in which

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Customer requirements can only be satisfied by special engineering, design, programming, development or construction activities not otherwise provided in this tariff. ICB rates are developed based on the specific circumstances of the situation and will be made available to similarly situated customers in a non-discriminatory manner. Terms of the specific ICB contracts will be made available to the Commission staff on a confidential basis upon staffs written request to the Carrier.

Interruption - The inability to use the Carrier's service due to equipment malfunctions or human errors. Interruption shall not include acts of God. Nor shall Interruption include service or facilities provided by a common carrier or other entity other than the Carrier. Any Interruption allowance provided within this Tariff by Carrier shall not apply where service is interrupted by the negligence or willful act of the Customer, or where the Carrier pursuant to the terms of this Tariff, terminates service because of non-payment of bills, unlawful or improper use of the Carrier's facilities or service, or any other reason covered by this Tariff or by applicable law.

Premises - The space occupied by an individual Customer in a building, in adjoining buildings occupied entirely by that Customer, or on contiguous property occupied by the Customer separated only by a public thoroughfare, a railroad right of way, or a natural barrier.

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.

SECTION 1.1.1. - ABBREVIATIONS

Gbps - Gigabits per second; one thousand million bits per second

ICB - Individual Case Basis

Mbps - One million megabits per second data transmission speed

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SECTION 2. RULES AND REGULATIONS

- 2.1. The Carrier provides facilities-based and resold telecommunications services to business, institutions, organizations and carrier customers.
- 2.1.1. The Carrier will provide services statewide in Pennsylvania. The Carrier installs, operates and maintains the communications services provided herein in accordance with the terms and conditions set forth in this tariff unless otherwise provided in ICB contracts. When authorized by the Customer, the Carrier may act as the Customer's agent for ordering access connection facilities provided by other carriers or entities to allow connection of a Customer's location to the Carrier's network. The Customer shall be responsible for all charges due for such service arrangements.
- 2.1.2. The Carrier's services are provided on a monthly basis, unless otherwise stated in this tariff or in applicable ICB contracts. Services are available twenty-four (24) hours per day, seven (7) days per week.
- 2.2. Application of Tariff
- This tariff sets forth the service offerings, rates, terms, and conditions, applicable to the furnishing of intrastate competitive access service to business, organizations and institutions within the state of Pennsylvania by DES Communications, Inc. hereinafter referred to as (the "Carrier").
- 2.3. Use of Services
- 2.3.1. Service is furnished to the User for any lawful purpose. Service shall not be used for any unlawful purpose, nor used in such a manner as to interfere unreasonably with the use of service by any other Users.
- 2.3.2. The use of the Carrier's services without payment for service or attempting to avoid payment for service by fraudulent means is prohibited.
- 2.3.3. Carrier's services are available for use twenty-four hours per day, seven days per week, except for temporary interruptions due to equipment modifications, upgrades, relocations, repairs and similar activities necessary for proper or improved operations, which the Customer will be provided advance notice.
- 2.3.4. Carrier does not transmit messages pursuant to this Tariff, but its services may be used

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for that purpose.

- 2.3.5. Carrier's services may be canceled for nonpayment of uncontested bill charges or for other violations of this Tariff as outlined in Section 2.6.3 of this Tariff. 2.3.6.

2.4. Liability of Carrier

- 2.4.1. An interruption period begins when the Customer reports a service, facility or circuit to be inoperative and releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative. If the User reports a service, facility or circuit to be inoperative but declines to release it for testing and repair, the service, facility or circuit is considered to be impaired but not interrupted. No credit allowances will be made for a service facility or circuit considered by the Carrier to be impaired. When service is interrupted for a period of at least 24 hours after notice by the Customer to Carrier, an allowance equal to 1/30 of fixed billing cycle charges for service and facilities furnished by the Carrier rendered useless or substantially impaired shall apply to each 24 hours during which the interruption continues after notice by the Customer to the Carrier. Credit in any billing period shall not exceed the total non-usage charges for that period for the services and facilities furnished by the Carrier rendered useless or substantially impaired. No allowance shall apply to any non-recurring or usage charges. In the event the User is affected by such interruption for a period of less than twenty-four (24) hours, no adjustment will be made. No adjustments will be earned by accumulating non-continuous periods of interruption
- 2.4.2. Except as provided below, Carrier shall not be liable for any failure of performance due to causes beyond its control, including, without being limited to act of God, fires, floods or other catastrophes, national emergencies, insurrections, riots or wars, strikes, lockouts, work stoppage or other labor difficulties, acts or omissions of other carriers, and any law, order, regulation or other action of any governing authority or agency thereof. When service is interrupted for a period of at least 24 hours due to such factors such as storms, fires, floods or other conditions beyond the control of the Carrier, an allowance equal to 1/30 of fixed billing cycle charges for service and facilities furnished by the Carrier rendered useless or substantially impaired shall apply to each 24 hours during which the interruption continues after notice by the Customer to the Carrier.
- 2.4.3. The Customer is responsible for taking all necessary legal steps for interconnecting Customer-provided terminal equipment with Carrier's facilities. The Customer shall

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secure all licenses, permits, rights-of-way, and other arrangements necessary for such interconnection.

2.4.4. The liability of the Carrier for any loss or damages out of mistakes, omissions, delays, errors, defects or failures in the service, or in any non-regulated equipment or facilities, shall not exceed an amount equivalent to the proportionate charge to the Customer for the period during which the mistake, omission, delay, defect, or failure existed, or the Tariff charge for the service involved. Under no circumstances shall the Carrier be liable for any consequential, special, indirect, incidental or exemplary damages.

2.4.5. Carrier shall not be liable for any act or omission or any connecting carrier, underlying carrier, or incumbent local exchange company; for acts or omission of any other providers of connections, facilities, or for service other than the Carrier; or for culpable conduct of the Customer or failure of equipment, facilities or connection provided by the Customer.

2.4.6. Carrier shall not be liable for defacement of or damage to, the premises of a Customer resulting from the attachment or instruments, apparatus and associated wiring furnished by the Carrier on such Customer's premises or by the installation or removal thereof, when such defacement or damage is not the result of the Carrier's gross negligence. No agents or employees of the other participating carriers shall be deemed to be agents or employees of Carrier.

2.4.7. Carrier makes no warranties or representations, expresses or implies either in fact or by operation of law, statutory or otherwise, including warranties of merchantability of fitness for a particular use, except those expressly set forth herein.

2.5. Responsibilities of the Customer

2.5.1. The Customer is responsible for placing any necessary orders for complying with Tariff regulations and for assuring that end users comply with Tariff regulations. The Customers shall ensure compliance with any applicable laws, regulations, orders or other requirements (as they exist from time to time) of any governmental entity relating to services provided or made available by the Customer to end users.

2.5.2. The Customer is responsible for charges incurred for special construction and/or special facilities which the Customer requests and which are ordered by Carrier on the Customer's behalf.

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- 2.5.3. If required for the provisioning of the Carrier's services, the Customer must provide the Carrier, free of charge, with any necessary equipment space, supporting structure, conduit and electrical power.
- 2.5.4. The Customer is responsible for compliance with the applicable regulations set forth in this Tariff.
- 2.5.5. The Customer shall ensure that the equipment and/or system is properly interfaced with Carrier facilities or services, 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 use of protective interface devices. If the Customer fails to maintain the equipment and/or the system properly, with resulting imminent harm to Carrier equipment, personnel, or the quality of service to other Customers, Carrier may, upon 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 five (5) days written notice, via first class U.S. mail terminate the Customer's service.
- 2.5.6. The Customer is responsible for arranging access to its premises at times mutually agreeable to Carrier and the Customer when required for Carrier personnel to install, repair, maintain, program, inspect or remove equipment with the provision of Carrier's services
- 2.5.7. The Customer is responsible for payment of the charges set forth in this Tariff.
- 2.5.8. The Customer agrees to release, indemnify and hold harmless the Carrier against 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 person, for any service interruption or loss of or damage to any property, whether owned by the Customer or others. The Customer shall reimburse the Carrier for all costs, expenses and fees incurred by the Carrier in its defense against such actions.
- 2.6. Cancellation or Interruption of Services

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2.6.1. Customers may terminate service, with or without cause, by giving the Carrier notice. If the Customer has a term contract, early termination charges may apply. The Carrier may terminate service with five (5) days oral or written notice to the Customer for any of the following occurrences:

- Customer non-compliance with Commission regulations
- Failure of the Customer to make satisfactory arrangements to pay arrearages or meet the requirements of a payment agreement
- Failure of the Customer to permit the Carrier to have reasonable access to its equipment, facilities, service connections or other property
- Failure of the Customer to pay a non-disputed delinquent account
- Failure of the Customer to provide the Carrier with adequate assurances that an unauthorized use or practice will cease
- Customer's maintenance or operation of its equipment in such a manner as to adversely affect the Carrier's equipment or service to others
- Customer fraud or material misrepresentation of identity for purpose of obtaining telephone service
- Failure of the Customer to adhere to contractual obligations with the Carrier
- Customer non-compliance with any provision of this tariff which results in threatening the safety of a person or the integrity of the service delivery system of the Carrier
- Customer tampering with the Carrier's equipment or service
- The Carrier may terminate service without written notice to the Customer for any of the following occurrences
- Customer's unauthorized or illegal use of the Carrier's service or equipment
- Procedures for discontinuance of existing service

2.6.2. Carrier may discontinue service without notice for any of the following reasons:

- If a Customer or User causes or permits any signals or voltages to be transmitted over Carrier's network in such a manner as to cause a hazard or to interfere with Carrier's service to others.
- If a Customer or User uses Carrier's services in a manner to violate the law.
- In all other circumstances, Carrier will provide the Customer with written notice via first class U. S. mail stating the reason for discontinuance and will allow the Customer not less than fifteen (15) days to remove the cause for discontinuance. In cases of non-payment of charges due, the Customer will be allowed at least ten (10) days written notice via first class mail that disconnection will take place within five days, excluding Sundays and

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holidays, and the Customer will be given the opportunity to make full payment of all undisputed charges, and in no event will service be discontinued on the day preceding any day on which Carrier is not prepared to accept payment of the amount due and to reconnect service.

- 2.6.3. Without incurring liability, Carrier may interrupt the provision of services at any time in order to perform tests and inspections to assure compliance with tariff regulations and the proper installation and operation of Customer and Carrier's equipment and facilities and may continue such interruption until any items of non-compliance or improper equipment operation so identified are rectified.

2.7. Billing Arrangements

- 2.7.1. Customers will be billed directly by Carrier.
- 2.7.2. Carrier will render bills monthly. Payment is due within thirty (30) days after Customers' receipt of its bill.
- 2.7.3. Carrier may impose a late payment charge of 1.5% on any bill not paid within thirty (30) days of receipt by the customer.

2.8. Validation of Credit

Carrier reserves the right to validate the credit worthiness of Customers.

2.9. Contested Charges

- 2.9.1. All bills are presumed accurate and shall be binding on the Customer unless objection is received either orally or in writing before actual suspension or termination of service. Suspension or Termination is prohibited until resolution of the dispute. In the event that a billing dispute between the Customer and the Carrier for service furnished to the Customer cannot be settled with mutual satisfaction, the Customer may take the following course of action:
- 2.9.2. First, the Customer may request, and Carrier will provide, an in-depth review of the disputed amount. The undisputed portion and subsequent bills must be paid on a timely basis or the service may be subject to disconnect.

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2.9.3. Second, if there is still a disagreement about the disputed amount after investigation and review by the Carrier, the Customer, within ten days of the notification or mailing of the Carrier's written summary of the findings or resolution of the dispute, an informal complaint may be filed with the Bureau of Consumer Services, 400 North Street, Harrisburg, PA, 17105, in accordance with the Commission rules of procedure. The Bureau of Consumer Services shall have primary jurisdiction over customer complaints. The Bureau of Consumer Services' toll-free number is (800) 692-7380.

2.10. Taxes.

All federal excise taxes, state, local sales, use and similar taxes, including gross receipts taxes, are billed as separate items and are not included in the quoted rates for service.

2.11. Promotions

From time to time, the Carrier may offer services or waive or vary service rates for promotional, market research or other similar business purposes. Such offerings will be tariffed, and the Carrier will seek prior approval from the Commission for these offerings. Varying rates for promotional offerings will not exceed those in this tariff for the same services. Promotional offerings will be filed as a tariff supplement and may not have duration of longer than 6 months in any rolling 12-month period that commences as of the effective date of the filed promotion.

2.12. Billing and Collection Practices

Carrier will adopt all billing and collection practices as adopted by the Pennsylvania Public Utilities Commission.

2.13. Shortage of Equipment or Facilities

2.13.1. The Carrier reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Carrier, when necessary because of lack of facilities, or due to some other cause beyond the Carrier's control.

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- 2.13.2. The furnishing of service under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Carrier's facilities as well as facilities the Carrier may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Carrier.

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SECTION 3. DESCRIPTION OF SERVICES**3.1. Dedicated Access Services**

- 3.1.1. Dedicated Access Services consist of the services offered pursuant of this section, either individually or in combination. Each service is offered independently of the other. Service is offered via the Carrier's facilities for the transmission of one-way and two-way communications, unless noted.

Ethernet Services (1 Mbps –10Gbps)

3.2. Other Services

The Carrier on an Individual Case Basis (ICB), depending on conditions and Customer requirements, may provide other services, including dark fiber, wireless transmission, and fractional point-to-point high-speed digital point- to-point services.

3.3. Individual Case Basis (ICB) Arrangements

- 3.3.1. ICB Arrangements are those which are not offered under other sections of this tariff. ICB Arrangements will be developed on a case-by-case basis in response to bona fide requests from Carrier Customers or prospective Carrier Customers. The facilities utilized to provide these services are of a type normally used by the Carrier in furnishing its other services to Carrier Customers, and shall be comparable with other access services offered by the Carrier, as well as the standard engineering and maintenance practices of the Carrier. The requested service or arrangement is subject to the availability of the necessary Carrier personnel and capital resources.
- 3.3.2 Rates quoted in response to requests for ICB Arrangements may be different than those specified for the services identified in this tariff. The Customer has one hundred and eighty (190) days after receiving the ICB rates to order the service requested at the rates quoted by the Carrier. ICB/Special Arrangement rates will be provided to the Commission upon request.

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SECTION 4. RATES AND CHARGES

4.1 Rate Elements

Non-recurring and monthly recurring rates apply and vary for each service furnished by the Carrier. Monthly recurring rates vary according to the time period for which the Customer commits to take the service.

4.2 Rates

4.2.1 Carrier Ethernet Transport Rates

1-4 Mbps:	\$265 per Mbps
5-9 Mbps:	\$195 per Mbps
10-99 Mbps:	\$160 per Mbps
100+ Mbps:	\$ 55 per Mbps
Gigabit Ethernet:	\$7,350 per Gigabit

4.2.2 Broadband Internet Service Rates

1-10 Mbps:	\$125 per Mbps
11-50 Mbps:	\$105 per Mbps
50-150 Mbps:	\$ 90 per Mbps
>150 Mbps:	\$ 55 per Mbps

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4.2.3 Internet 2 Transport Rates
\$5,500 Per month/100 Mbps

4.3 Labor Rates

The following rates are labor rates for services not covered in ICB scope of work:

Network Engineer: \$150 per hour

Field Engineer: \$ 95 per hour

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