



# COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

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## NOTICE

December 27, 2011

To all Massachusetts Telecommunications Carriers:

On November 18, 2011, the Federal Communications Commission (FCC) released its USF/ICC Transformation Order and Further Notice of Proposed Rulemaking, FCC 11-161 (USF/ICC Order), permitting local exchange carriers to file state tariffs that reflect default intercarrier compensation rates for intrastate VoIP/PSTN traffic. In the FCC's Order, the Commission determined that default charges for all VoIP/PSTN traffic will ultimately be subject to a bill-and-keep framework. As part of its intercarrier compensation transition program, the FCC held that intrastate access VoIP/PSTN traffic rates, as of December 29, 2011, must be calibrated to interstate rates. The FCC also said that carriers may file state tariffs consistent with existing state requirements to reflect how the rate changes would be implemented.<sup>1</sup>

Since the FCC released its Order, the Department has received several proposed VoIP/PSTN tariff filings. With one exception, however, these proposed tariff filings have not specified the new rates that the carriers will bill interconnecting carriers for VoIP/PSTN traffic, as is standard Department requirement. Instead, these state tariff filings merely refer to the carriers' federal or interstate tariff.

The Department generally requires all Massachusetts tariff filings to specify the actual rates to be imposed as of the tariff's effective date.<sup>2</sup> Simply referring to an external document (such as the federal tariff), without also specifying applicable rates, is insufficient because it does not adequately inform the Department, the public, or other telecommunications carriers of the actual rates which will be applied. Some federal tariffs are hundreds of pages in length and a general reference to the entire tariff is vague and not informative.

<sup>1</sup> See USF/ICC Order, at ¶¶ 933, 934.

<sup>2</sup> 220 C.M.R. 5.02(3)(b) ("Tariffs and schedules shall show plainly all requisite detail fully to explain the basis of all charges to be made and all rules and regulations governing the same.")

**The Department advises those telecommunications carriers that have already filed VoIP/PSTN tariffs to refile their tariffs with the specific rates or specific reference to the applicable intrastate tariff provisions.** Alternatively, the Department may permit a carrier to submit a refiled tariff that references a federal tariff in lieu of specifying rates, provided that: (1) the carrier makes a showing that supplying specific rates in the state tariff would impose a substantial burden on the company; and (2) the refiled tariff identifies specific subsections of the federal tariff that are applicable, as opposed to simply referring to the entire federal tariff. A carrier wishing to avail itself of this alternative procedure should contact the Department's Director of Competition.

Expedited treatment of tariff filings will be granted for good cause shown as the Department directs.<sup>3</sup> Carriers seeking expedited tariff review must submit a written request with the requisite additional \$100 expedited fee. Carriers that have already sought expedited treatment and who have already paid the expedited fee need not make the request or pay the fee a second time.<sup>4</sup> Any carrier seeking additional explanation or assistance with this advisory should contact Karlen Reed, Director, Competition Division, Massachusetts Department of Telecommunications and Cable, 617-368-1101, [Karlen.reed@state.ma.us](mailto:Karlen.reed@state.ma.us).

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<sup>3</sup> M.G.L. c. 159, § 19. *See also* MDTC Tariff FAQs, available at: <http://www.mass.gov/ocabr/government/oca-agencies/dtc-lp/competition-division/telecommunications-division/doing-business/market-entry/tariff-faqs.html>.

<sup>4</sup> Carriers refiling their VoIP/PSTN tariffs do not need to pay an additional filing fee unless they seek expedited treatment.