



**Optical Internet**

## NETWORK SERVICES SERVICE LEVEL AGREEMENT NORTH AMERICA & EUROPE

This Service Level Agreement (SLA) is a part of the customer subscriber agreement (CSA or Agreement) between Customer and COGENT. Capitalized terms used herein that are not defined in this SLA shall have the meaning attributed to them in the CSA.

### 1. SERVICE COMMITMENT

COGENT is committed to providing a reliable, high-quality network to support its high-speed network services (Service). As part of this commitment, COGENT is pleased to offer eligible Customers the following guarantees as concerns the Service in the United States, Canada and Europe:

- Installation Guarantee
- Network Availability and Notification Guarantee
- Network Latency Guarantee
- Packet Delivery Guarantee

**The Notification Guarantee, Latency Guarantee and Packet Delivery Guarantee apply to Cogent Dedicated Internet Access Customers only.** If COGENT fails to meet any of these guarantees, it will provide eligible Customers with a Service Credit, as set forth below in this Service Level Agreement.

### 2. GUARANTEES.

#### A. INSTALLATION GUARANTEE.

For each of the Services listed below, Cogent guarantees connectivity for Customers will be installed within the corresponding timeframe, as measured from the date an order has been validated and entered into Cogent's provisioning system by its Account Coordination team.

- On-Net: 17 business days
- T1 / EI: 40 business days
- T3 / E3: 60 business days
- Colo: 17 business days
- Ocx/ STMx: 90 business days
- Ethernet Loop: 90 business days

An order will not be validated until a signed Order Form and CSA and any other required documentation specified by COGENT, has been received, validated, approved and entered into COGENT's provisioning system by its Account Coordination team. Additional required documentation may include a completed credit application and a completed questionnaire for IP Allocation as well as completed questionnaires for BGP, SMTP and DNS configurations when requested by the customer on the IP Allocation Questionnaire.

The Installation guarantee for Cogent colocation services does not apply to third-party data centers. For point-to-point connections, the port with the longest install time governs the entire order, e.g., if one port is On-Net and the other port requires an Ethernet Loop, the longer install time corresponding to the Ethernet Loop applies to both orders.

If COGENT fails to meet these commitments, Customer will receive, at Customer's request, one (1) month Service Credit. Customer may obtain no more than one (1) month Service Credit for any given month. COGENT's Installation Guarantee is subject to the following conditions:

- Customer or its representative must cooperate with COGENT in the installation process, which includes accurate completion of an Order Form containing detailed demarcation information and other onsite contact listings. Changes in an Order Form made by or on behalf of Customer or the occurrence of events outside the reasonable control of COGENT, such as Force Majeure (as defined in the CSA), may result in delays for which COGENT is not responsible hereunder.
- Customer or its representative must be physically present at the time of installation and must provide access to the designated building's phone closet(s) on the date(s) agreed to by COGENT's Installation Coordination Department. Such building access and escort must also be provided to other necessary personnel to perform the installation of the connection.
- This Installation Guarantee applies to the interval between the original order date and original Installation Guarantee date. If Customer requests a change to an order date during implementation of Service, the Installation Guarantee date shall, at COGENT's sole discretion, begin again upon change acceptance.
- The Service Credit for failure to meet the Installation Guarantee is not available to Customers for whom installation charges have been waived or reduced.

#### B. NETWORK AVAILABILITY AND NOTIFICATION GUARANTEE.

COGENT guarantees Network Availability of the Service of 99.99% across its facilities-based nationwide backbone and metropolitan Network. If the COGENT Network experiences Network Unavailability for more than 15 consecutive minutes, Customer will receive, at Customer's request, one (1)

day Service Credit for each cumulative hour of Network Unavailability in any calendar month. Provided the COGENT Network experiences at least one (1) hour of Network Unavailability in any given calendar month, additional Network Unavailability of less than one (1) hour will result in a proportional Service Credit. (Example: 2 hours, 15 minutes of Network Unavailability will result in 2.25 days Service Credits.) Customer may obtain no more than one (1) month Service Credit for any given month.

COGENT's Outage Notification Guarantee is to proactively notify a Dedicated Internet Access Customer within 15 minutes after COGENT determines that Customer's Service is unavailable. COGENT's standard procedure is to ping the Customer's router every minute. If Customer's router does not respond after ten consecutive ping cycles, COGENT will deem the Service unavailable and will contact Customer's designated point of contact by a method elected by COGENT (telephone, email, fax, or pager).

If COGENT fails to meet this Outage Notification Guarantee, Customer will receive, at Customer's request, one (1) day Service Credit for the Service with respect to which this Guarantee has not been met. Customer may obtain no more than one day Service Credit per day, regardless of how often in that day COGENT failed to meet the Customer Reporting Guarantee. Customer may obtain no more than one (1) month Service Credit for any given month.

### C. NETWORK LATENCY GUARANTEE.

For Dedicated Internet Access customers only, the monthly average Network Latency for packets carried over the COGENT Network between Backbone Hubs for the following regions is as specified below:

Intra-North America:	50 milliseconds or less
Intra-Europe:	35 milliseconds or less
New York to London (Trans-Atlantic):	85 milliseconds or less

Network Latency (or Round trip time) is defined as the average time taken for an IP packet to make a round trip between Backbone Hubs within the regions specified above on the COGENT Network. COGENT monitors aggregate latency within the COGENT Network by monitoring round-trip times between a sample of Backbone Hubs on an ongoing basis.

After being notified by Customer of Network Latency in excess of the rates specified above, COGENT will use commercially reasonable efforts to determine the source of such excess Network Latency and to correct such problem to the extent that the source of the problem is on the COGENT Network.

If COGENT fails to remedy such Network Latency within two (2) hours of being notified of any excess Network Latency and average Network Latency for the preceding 30 days has exceeded the rates specified above, Customer will receive, at Customer's request, a Service Credit for the period from the time of notification by the Customer until the average Network Latency for the preceding 30 days is less than the rates specified above. Customer may obtain no more than one (1) month Service Credit for any given month.

### D. PACKET DELIVERY GUARANTEE.

For Dedicated Internet Access customers only, the COGENT Network has an average monthly Packet Loss no greater than 0.1% (or successful delivery of 99.9% of packets). Packet Loss is defined as the percentage of packets that are dropped between Backbone Hubs on the COGENT Network. COGENT monitors this aggregate packet loss on an ongoing basis, and compiles the collected data into a monthly average packet loss measurement for the COGENT Network.

After being notified by Customer of Packet Loss in excess of 0.1%, COGENT will use commercially reasonable efforts to determine the source of such excess Packet Loss and to correct such problem to the extent that the source of the problem is on the COGENT Network.

If COGENT fails to remedy such excess Packet Loss within two (2) hours of being notified of any excess Packet Loss on the COGENT Network and average Packet Loss for the preceding 30 days exceeds 0.1%, Customer will receive, at Customer's request, a Service Credit for the period from the time of notification by the Customer until the average Packet Loss for the preceding 30 days is less than 0.1%. Customer may obtain no more than one (1) month Service Credit for any given month.

## 3. ADDITIONAL DEFINITIONS

Dedicated Internet Access or Internet Transit refers to Cogent's Layer 3 service that provides customers access to the public Internet.

Backbone Hub means a major network facility owned, operated, or controlled by COGENT which is directly connected to the COGENT fiber backbone network and which contains at least one Gigabit Switch Router (GSR). In larger metropolitan markets containing more than one such facility, one facility in that market will be designated as a Backbone Hub for the purpose of calculating the monthly average Network Latency and Packet Loss statistics.

On-Net means buildings that are directly connected to the COGENT Network and, as such, do not require COGENT to lease a third-party local loop in order to provide connectivity.

COGENT Network means the telecommunications/data communications network and network components owned, operated or controlled by COGENT, including COGENT's national fiber backbone, its metropolitan fiber networks, any equipment connected to such fiber, and the software, data and know-how used by COGENT in the provision of the Services. Where COGENT provides Service to a building through its own facilities, the COGENT Network includes those facilities. The COGENT Network does not include customer premises equipment, customer-ordered telephony circuits, and any networks or network equipment not operated and controlled by COGENT.

Monthly Recurring Charge means the fixed, recurring charge invoiced by COGENT to Customer on a monthly basis for the Service, exclusive of any variable charges based upon Customer usage.

Network Unavailability means the number of minutes that the COGENT Network was not available to Customer, including the number of minutes that the COGENT Network was not available associated with any non-Scheduled Maintenance to the COGENT Network. Network Unavailability

will not include Scheduled Maintenance, or any unavailability resulting from: (a) problems with or maintenance on Customer’s applications, equipment or facilities; (b) acts or omissions of Customer or an authorized user; (c) unavailability caused by companies other than COGENT, except COGENT -ordered telephony circuits; or (d) Force Majeure.

Scheduled Maintenance means any maintenance of the COGENT Network (or portion thereof) to which Customer’s router is connected that is performed during a standard maintenance window in North America from 3:00am to 7:00am (local time of the COGENT Hub to which Customer’s circuit is connected) except the Pacific time zone where the window is from 2:00am to 6:am PAC. In Europe the standard maintenance window is 4:00am to 8:00am Central European time which is 3:00 to 7:00am GMT. Customers will be notified via Email at least two (2) business days in advance of any scheduled maintenance that is likely to effect their service. In most cases, maintenance performed will not take the full configuration window, however, COGENT will inform Customer as to anticipated duration in the maintenance notification E-mail.

Service Credit means

- *One (1) day Service Credit* = 1/30<sup>th</sup> of Customer’s Monthly Recurring Charges.
- *One (1) week Service Credit* = 7/30<sup>ths</sup> of Customer’s Monthly Recurring Charges.
- *One (1) month Service Credit* = Full amount of Customer’s Monthly Recurring Charges.

If COGENT approves a claim for Service Credit for failure to comply with the Installation Guarantee, Service Credit shall mean COGENT’s charge for Customer’s first full month of the Service, not including installation charges or other start -up fees.

**4. SERVICE CREDIT CLAIM PROCESS.**

In order to initiate a claim for Service Credit, Customer must contact COGENT’s customer service group within seven (7) business days after the end of the month for which credit is requested. The Service Credit request must provide: (a) the Customer name and contact information; (b) the date and beginning/end time of the claimed outage or failed metric; and (c) a brief description of the characteristics of the claimed outage or failed metric.

Customer will be notified via e-mail upon resolution of the request. If rejected, the notification will specify the basis for rejection. If approved, COGENT will issue Service Credit to Customer’s account, appearing on the next invoice issued. Multiple Service Credits will not be given for the same period of time, *i.e.*, failure to meet multiple criteria during a period of time generates only a single Service Credit. The total number of all Service Credits for all failures to meet Guarantees occurring in a given month may not exceed the total Monthly Recurring charge actually paid by Customer for Service during that month. Service Credits will be credited against a Customer’s monthly payment for Monthly Recurring Charges and may not be received in the form of a refund.

The Guarantees and Service Credits provided for in this SLA assume compliance by Customer with the terms and conditions of its CSA with COGENT, and the failure of Customer to comply with those terms and conditions may invalidate COGENT’s guarantees provided herein. No credit is available for a Customer (a) that is blocking COGENT from monitoring Customer’s premises router; (b) that does not provide the necessary access to personnel and facilities at the Customer’s premises to enable COGENT to perform comprehensive troubleshooting; or (c) whose account is not in good financial standing with COGENT. COGENT is not liable for failure to fulfill its obligations hereunder if such failure is due to Customer’s use of bandwidth in excess of the maximum amount specified in Customer’s CSA, Customer’s tampering with any equipment, or acts beyond COGENT’s reasonable control, such as Force Majeure.

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Cogent Communications, Inc.

[www.cogentco.com](http://www.cogentco.com)

See website for full contact information by country