
**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF REVISIONS
AND/OR ADDITIONS TO THE
COMMISSION'S SWITCHED
ACCESS RULES CODIFIED IN ARSD
20:10:27 THROUGH 20:10:29.**

**DOCKET RM05-002

COMMENTS OF
SDTA AND LECA**

The Local Exchange Carriers Association (LECA), on behalf of its member local exchange carriers (LECs) and the South Dakota Telecommunications Association (SDTA) on behalf of its member LECs (some of which are not members of LECA), respectfully submit the following joint comments as initial comments responding to the draft administrative rule proposals relating to the switched access rates of competitive local exchange carriers provided with the Commission's letter of June 1, 2010.

With regard to the rule revisions proposed in ARSD Chapter 20:10:27, SDTA and LECA support their adoption by the Commission and believe the draft rules appropriately recognize the concerns previously expressed by both LECA and SDTA in this docket and more recently, by SDTA, in Docket TC10-014 (In the Matter of the Investigation of Pricing Regulation for Switched Access Services Provided by Competitive Local Exchange Carriers). As noted in SDTA's Petition to Intervene filed in Docket TC10-014 and in the "Direct Testimony of Dan Davis" submitted by SDTA in that Docket, SDTA believes it is especially critical in this rulemaking proceeding for the Commission to remain cognizant of the different service obligations and regulations imposed by the FCC and this Commission on incumbent local exchange carriers (ILECs) versus competitive local exchange carriers (CLEC), and the resulting cost of service differences that exist between such carriers. For these reasons and other reasons

commented on in Docket TC10-014 and, previously, in these proceedings (see “Joint Initial Comments of LECA and SDTA” dated February 3, 2006, and “Reply Comments of LECA and SDTA” dated November 30, 2007), SDTA and LECA strongly believe that any revisions to the switched access rules proposed for adoption at this time should only effectuate changes to the manner of regulating the intrastate switched access rates charged by CLECs operating within the State. The rule revisions, as proposed, are in our view appropriately limited, changing only the method of switched access service regulation that is applied to CLEC entities.

Allowing rural ILECs, which serve as carriers-of-last-resort, to remain under rate-of-return regulation for their switched access services is critical to incenting continued network investment and also plays an important role in keeping other basic and advanced telecommunications services affordable in the highest cost areas of South Dakota. Further, as LECA and SDTA have both emphasized to the Commission on numerous occasions, responsible intrastate access reform requires a fair recognition of the extent to which regulated rural carriers rely on switched access revenues and a corresponding effort to ensure that a reasonable opportunity for recovery is provided through some sort of revenue replacement mechanisms. As pointed out by SDTA witness Dan Davis, in Docket TC10-014:

The FCC recently released its National Broadband Plan (“NBP”) to Congress. The NBP introduces a framework for intercarrier compensation reform and universal service reform. As part of the NBP, the FCC will consider requirements which would move state access rates to interstate access rate levels over a period of time and later phasing access rates to reciprocal compensation rates. The NBP does not clearly articulate how rural ILECs are to recover the revenues lost in reducing state access charges under these proposals, but it is indicated in addressing these proposals that carriers should be given the “opportunity for adequate cost recovery.”¹ Further, it is specifically indicated in the NBP that the universal service monies discontinued for competitive ETCs may, in part, be reallocated as a “potential revenue replacement resulting from intercarrier compensation reform.” These indications related to future FCC action suggest that it will be important for state commissions to coordinate any switched access

¹ See “Connecting America: The National Broadband Plan” released March 16, 2010, p. 148.

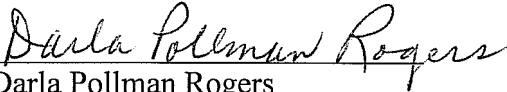
regulatory reform for ILECs with what is likely to occur at the federal level. If reform of ILEC intrastate charge regulation is done prematurely, before the precise details for federal intercarrier compensation reform are known, there is certainly a possibility that less universal service replacement dollars would be available to offset intrastate access revenue losses. And certainly, an inability to recoup such dollars could stall continued facility investment in the high cost rural markets and even affect the very sustainability of some rural ILEC operations.

In addition, as SDTA has earlier stressed to this Commission, in implementing price regulation for CLEC access rates, it is important that any rule changes be consistent with the rural safeguards and other provisions found in the federal and state law that are intended to discourage selective marketing by competitors, prevent geographic rate de-averaging between urban and rural areas, and otherwise preserve and advance universal service. SDTA and LECA believe that the CLEC access rule changes, as proposed, sufficiently take into account these additional regulatory requirements.

Based on the foregoing, SDTA and LECA would urge the Commission to adopt the rules and present them to the State Legislative Research Council (LRC). With regard to the current rulemaking process before the Commission, however, SDTA and LECA believe the schedule should be expanded to permit the filing of reply comments by interested parties. It is our belief that the initial comments of some parties will likely include proposed revisions to Commission draft rules. If it is the intent of the Commission to actually consider proposed revisions to the draft rules and possibly forward different rules to the LRC, all parties should be given some opportunity to respond with further comment.

(Signature Page to Follow)

Respectfully submitted this fifteenth day of June, 2010.



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CERTIFICATE OF SERVICE

I, Darla Pollman Rogers, certify that a true and correct copy of Comments of SDTA and LECA were emailed to the following on the 15th day of June, 2010:

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