



Advocating for South Dakota's Rural Broadband Providers

June 28, 2019

Ms. Patty Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

Re: Draft Rules and Amendments for Docket RM19-001

Dear Ms. Van Gerpen:

The South Dakota Telecommunications Association (SDTA) appreciates the opportunity to comment on the Commission's draft administrative rule provisions provided with the letter of Commission Counsel, Adam de Hueck. This letter is submitted as comment on revisions to the Commission's current "Local Exchange Service Competition" rules and, more specifically, rules relating to the "Annual Certification Requirements for Designated Eligible Telecommunications Carriers" (ETCs) set forth in ARSD §§ 20:10:32:52 through 20:10:32:56.

The proposed draft rule changes include changes to ARSD § 20:10:32:54 that, if adopted, will eliminate the reporting requirements proposed under subsections (8) and (9) of that rule. SDTA supports these revisions, but would ask the Commission to also consider certain other revisions to the annual ETC certification requirements.

Below are the additional revisions proposed by SDTA, along with brief comments noting the merits of each.

20:10:32:52. Annual certification requirements for designated eligible telecommunications carriers. Consistent with 47 C.F.R. §§ 54.313 and 54.314 (January 1, 2006), an eligible telecommunications carrier shall request the commission to file an annual certification with the Universal Service Administrative Company and the Federal Communications Commission stating that all federal high-cost support provided to the carrier was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. An eligible telecommunications carrier shall file its request for annual certification with the commission on or before August 1, 2006, and by June-July first of each year. Failure of an eligible telecommunications

carrier to file by the deadline may result in the commission's inability to provide certification to the Universal Service Administrative Company and the Federal Communications Commission by the following October first.

The above proposed revision to the first sentence of ARSD § 20:10:32:52 mirrors language found in the federal rule, which specifically describes the requirements imposed on State's regarding the "annual certification" relating to ETC's use of federal high cost support (47 C.F.R. § 54.314). The language of this federal rule (subsection (a)), states as follows:

(a) Certification. States that desire eligible telecommunications carriers to receive support pursuant to the high-cost program must file an annual certification with the Administrator and the Commission stating that all federal high-cost support provided to such carriers within that State was used in the preceding calendar year and will be used in the coming calendar year only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. High-cost support shall only be provided to the extent that the State has filed the requisite certification pursuant to this section. Emphasis added.

While the above proposed language to ARSD § 20:10:32:52 is not absolutely necessary, it does serve to clearly indicate to filing entities that the Commission has an obligation to not only review past expenditures relating to high cost universal distributions, but that it must also examine future plans, in particular how support provided under the federal high-cost program will be used in the coming calendar year.

In addition, regarding the language of ARSD § 20:10:32:52, SDTA urges the Commission to change the filing deadline contained in the rule from June 1st to July 1st of each year. The Commission has for several years been granting waivers allowing for the state ETC certification filings to occur on or before July 1, coincident with the federal "annual reporting" ("Form 481") filings made pursuant to 47 C.F.R. § 54.313. These delays in the state filing deadline, to July 1, have been helpful to carriers, permitting reliance on information contained in their federal filing as a means of meeting at least some of the state certification/informational requirements. As SDTA has noted in the past, the administrative burdens caused by federal reporting requirements, especially for smaller rural carriers, are substantial. We urge the Commission to be mindful of these burdens and, where at all possible, avoid imposing duplicative reporting requirements.

~~20:10:32:53. Requirements for previously designated eligible telecommunications carriers and pending applications.~~ ~~A telecommunications company that has been designated as an eligible telecommunications carrier or has submitted its application for designation before the effective date of these rules must submit the information required by §§ 20:10:32:43.01 to 20:10:32:43.06, inclusive, by August 1, 2006.~~

It does not appear that the above rule has any legal effect due to the passage of time and it should be repealed and deleted from the rule Chapter.

20:10:32:54. Certification requirements. *In its annual certification filing, each eligible telecommunications carrier shall provide the following information, on a calendar year basis, to the commission:*

(1) A two-year service quality improvement plan as described in § 20:10:32:43.02;

(2) A progress report on its previously filed two-year service quality improvement plan, including either a clear description of and/or maps detailing its progress towards meeting its plan targets, an explanation of how much universal service support was received and how it was used to improve service quality, signal quality, coverage, or capacity, and an explanation regarding any network improvement targets that have not been fulfilled. The Information concerning completed or planned network improvement projects should indicate which wire center areas or local communities are benefited by the improvements shall be submitted at the wire center level; . . .

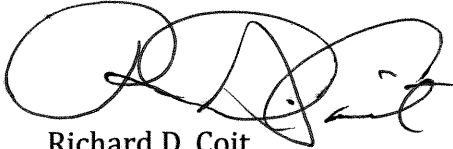
In support of the above proposed revisions to ARSD § 20:10:32:54, SDTA would urge the Commission to accept either maps or a “clear description” from ETCs regarding the progress they have made in meeting the plan targets outlined in their filed two-year service improvement plans. It is SDTA’s understanding that, to date, the Commission has given recognition to the different circumstances facing carriers with respect to the extent of their existing network deployments by not insisting in all cases that maps be provided for the purpose of showing progress in meeting network plan targets. SDTA believes this approach should continue. Certainly, as one example, for carriers that have already deployed network facilities (including fiber-to-the-premises) throughout their service areas, the filing of maps on an annual basis would appear to impose a completely unnecessary burden. SDTA asks the Commission to adopt the above proposed revision to the first sentence of ARSD § 20:10:32:54 as a means of giving carriers some flexibility, allowing them to not submit a separate map if they believe a clear written description of progress on network improvements will meet the Commission’s needs. Certainly, if after the

ETC filing is made the Commission Staff or the Commissioners believe a map is needed to better illustrate and inform, it could still be requested through Commission Staffs' data request process.

SDTA would further ask the Commission to consider adopting the above revision to the last sentence of ARSD § 20:10:32:54 in order to more clearly indicate to ETCs what specific information should be supplied at a "wire center level" as part of their annual ETC filing. The last sentence of the current rule has at times given rise to questions from some SDTA members regarding the extent to which they must allocate total network improvement expenses/costs to each wire center or local exchange area within their company service area(s). The revision as proposed is intended to clarify that it is not necessary to break down and assign to each wire center or exchange area the total costs of each network improvement or project. It would instead be sufficient to simply inform the Commission of the specific wire center(s) or local community or communities that are benefited by each completed or planned network improvement.

SDTA thanks the Commission and Commission Staff for its review and consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard D. Coit', written over a large, loopy circular flourish.

Richard D. Coit
SDTA Executive Director and General Counsel