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William Bullard  
Executive Director  
South Dakota Public Utilities Commission  
State of South Dakota  
500 East Capitol  
Pierre, South Dakota 57501

Re: In the Matter of the Switched Access Rates for Vivian Telephone Company  
Docket No. TC98-

Dear Mr. Bullard:

Enclosed please find an original and eleven copies of the Petition for Extension of Waiver of Switched Access Rules on behalf of Vivian Telephone Company. Also enclosed is a Certificate of Service.

Very truly yours,

MOSS & BARNETT  
A Professional Association

  
Michael J. Bradley

MJB/jjh  
Enclosures  
cc: Jack Brown  
176988/1

FAX Received APR 21 1998



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TC98-073

RECEIVED

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE  
STATE OF SOUTH DAKOTA

APR 23 1998

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

IN THE MATTER OF THE SWITCHED  
ACCESS RATES FOR VIVIAN  
TELEPHONE COMPANY

Docket Number TC98-\_\_\_:

**PETITION FOR EXTENSION OF WAIVER OF SWITCHED ACCESS RULES**

Vivian Telephone Company ("Vivian") petitions for an extension of the waiver of the Switched Access Rules granted in TC96-125. Vivian requests that it be allowed to continue charging a seven (7) cent Switched Access rate in the eight exchanges it purchased from US WEST Communications, Inc. ("USWC") until the South Dakota Public Utilities Commission ("Commission") approves a new rate, based on a cost study using calendar year 1998 data. This request has no effect on the Switched Access rate being charged in the Vivian exchanges purchased from GTE. A cost study was completed for those exchanges in 1996, and the rate in those exchanges would remain in effect. If the requested extension is granted, Vivian would conduct a Switched Access Cost Study for all of its exchanges using calendar year 1998 data. The following reasons support this request.

A. The Commission has authority to grant an extension of the waiver of its Switched Access Rules. ARSD 20:10:27:02, provides in relevant part:

For good cause, the commission may, on its own motion or by application from a carrier's carrier, temporarily waive or suspend any commission rule in chapters 20:10:27 to 20:10:29, inclusive.

B. The Commission's Decision and Order Regarding the Sale of The (Lesterville, Gregory, Witten and Clearfield Exchanges), dated October 24, 1996, in Docket TC96-125 ("October 1996 Order"), requires Vivian to file a cost study in accordance with the

Commission's Switched Access Rules, SDCL Chapters 20:10:27 to 20:10:29, by May 1, 1998.

The October 1996 Order provided in relevant part:

Pursuant to ARSD 20:10:27:02, the Commission finds that good cause has been shown to waive the application of ARSD Chapters 20:10:27 to 20:10:29, inclusive, to determine the intrastate switched access rates to be charged by the Buyer for a period from one year of closing of the sale or May 1, 1998, whichever occurs first, unless the Commission otherwise orders.

(Emphasis added.)

C. At the time Vivian agreed to purchase the Lesterville, Gregory, Witten and Clearfield exchanges from US WEST Communications, Inc. ("USWC"), it had been assumed that the acquisition would be completed in 1996. The requirement in the October 1996 Order "to determine the intrastate switched access rates to be charged by the Buyer for a period from one year of closing of the sale or May 1, 1998, whichever occurs first" reflected that assumption. Had Vivian acquired the exchanges in 1996, it would have owned the exchanges for at least 12 months before conducting the cost study needed to develop new Switched Access rates. In actuality, Vivian did not acquire the Lesterville, Gregory, Witten and Clearfield exchanges until June 1, 1997.

D. The Commission's Switched Access Rules require that a Switched Access Cost Study be based on 12 months of actual historical data, adjusted to reflect known and measurable changes. ARSD 20:10:27:14. Because Vivian did not acquire the four exchanges until June 1, 1997, it does not have the required 12 months of actual operating and traffic information for four of the eight exchanges purchased from USWC.

E. Further support for an extension of the waiver results from the fact that Vivian is installing a new switch in Lesterville, along with new transport facilities connecting with the South Dakota Network. These switch and transport changes are in the process of being

completed. Prior to these changes, USWC provided the switching for the Lesterville exchange. The switch change and new transport facilities represent known and measurable changes and could properly be included as an adjustment to the 1997 historical test year. However, when these changes are considered, along with the lack of 12 months of operating and traffic information for 1997, it becomes clear that the better solution would be to continue the existing rate for the exchanges purchased from USWC until a Switched Access Cost Study using 1998 calendar year information can be performed.

F. If an extension of the waiver is granted, Vivian would continue charging the current 7 cent Switched Access rate in the eight exchanges it purchased from USWC until the Commission approves a new rate, based on a cost study using calendar year 1998 data. The 7 cent rate was stipulated to between USWC and Vivian as a condition to Vivian's purchasing the exchanges from USWC. In its review of the initial sale of 55 exchanges by USWC, Docket No. TC94-122, the Commission approved the stipulated 7 cent Switched Access Rate, finding:

Pursuant to ARSD 20:10:27:14, switched access rates are determined by the adoption of a historical test year. There will not be a historical test period upon which to base a cost study for intrastate switched access rate purposes pursuant to the Commission's regulations until after a period of 12 months.

The US WEST cost-based switched access rate in the areas to be sold, pursuant to ARSD 20:10:27 to 20:10:29, inclusive, would be 6.7394 cents per minute as determined in Docket TC93-108, In the Matter of the Establishment of Switched Access Rates for US WEST. In that docket, US WEST was allowed to charge an interim rate of 3.14 cents per minute as a phased-in rate pursuant to ARSD 20:10:27:20.

The current intrastate switched access rates charged by some of the Buyers exceeds 10 cents per minute, which rates have been approved by the Commission in separate proceedings.

The Commission finds that an intrastate switched access rate of 7 cents per minute is a reasonable interim rate until May 1, 1997, and finds a good cause to waive its switched access rules pursuant to 20:10:17:02.

The interexchange carriers who have objected to an intrastate switched access rate of 7 cents per minute which will be charged to them by the Buyer have failed to show that state-wide averaged toll rates will increase if the sale is approved. Thus the 7 cents per minute intrastate switched access rate to be charged until May 1, 1997, should not adversely affect the public.

Based upon the evidence presented at the hearing, the interim rate of 7 cents per minute for originating and terminating intrastate access rates sought to be charged by the Buyer to interexchange carriers is consistent with the rate currently charged by local exchange companies pursuant to the Commission's rules and regulations regarding switched access rates. If any interexchange carrier believes that such rate is not fair and reasonable and consistent with such regulations of the Commission regarding switched access, then that interexchange carrier may file a complaint with the Commission.

Those findings remain valid. While it is not possible to complete the cost study required by the Commission's Switched Access Rules, Vivian's best estimate is that, if a study could be conducted, it would result in a rate that would be very close to the current 7 cent rate.

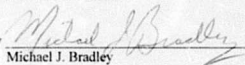
G. USWC has indicated that it does not oppose this request for an extension of the waiver.

H. The Commission faced these identical circumstances with respect to the 55 exchanges USWC sold one year previous to the sale of the Lesterville, Gregory, Witten and Clearfield exchanges. The purchases of those exchanges were similarly delayed, preventing the purchasers from operating the exchanges for 12 months before a Switched Access Cost Study was required under the Commission Orders approving those purchases. In its Order Granting Extension of Waiver of Switched Access Rules, dated July 29, 1997, Docket TC 97-042, the Commission granted the buyers of those exchanges an extension allowing them to operate their purchased exchanges for the entire 1997 calendar year before filing Switched Access Cost Studies.

Therefore, Vivian Telephone Company respectfully requests that its petition for an extension of the waiver of the Switched Access Rules be granted until such time as calendar year 1998 cost studies can be provided.

Dated: April 21, 1998

Respectfully submitted,

By   
Michael J. Bradley

MOSS & BARNETT  
A Professional Association  
4800 Norwest Center  
90 South Seventh Street  
Minneapolis, MN 55402-4129  
Telephone: 612-347-0337

Attorneys on Behalf of Vivian Telephone  
Company

TC98-074	Application by U S WEST Communications to apply cancellation charges when a customer cancels an order for tariff and to provide long distance service. U S WEST filed to reverse pages in its Access Service Tariff and to Provide Long Distance Service. (Staff: SRKC)	04/23/98	05/09/98
<b>NEGOTIATED INTERCONNECTION AGREEMENT FILED</b>			
TC98-075	U S WEST Communications, Inc. filed for approval by the Commission the negotiated interconnection Agreement between U S WEST Communications, Inc. and COM-CHOICE, LLC. Any person wishing to comment on the parties' request for approval may do so by filing with the Commission and the parties to the agreement no later than May 13, 1998. Parties to the agreement may file written objections to the comments no later than June 1, 1998. (Staff: HBC/CH)	04/23/98	Response Due 05/13/98

Requester Name: The Commission is compiling a list of colored addresses. If you have an internet address please notify the Commission by E-mailing it to: Perry.Nelson at Veri-Data, 1600 W. 14th Street, Suite 201, Fort Collins, Colorado at 970-733-3809

PAGE 2 OF 2

DOCKET NUMBER	TITLE/STAFF/SYNOPSIS	DATE FILED	INTERVENTION DEADLINE
<b>FORMAL COMPLAINT FILED</b>			
<b>TELECOMMUNICATIONS SERVICE FILINGS</b>			
<small>These are the telecommunications service filings that the Commission has received for the period of: 04/17/98 through 04/23/98</small>			
<small>If you need a complete copy of a filing listed overnight, e-mailed, or mailed by you, please contact Debra Kellie within five days of this filing</small>			
TC98-071	South Dakota Public Utilities Commission State Capital 500 E. Capitol Pierre, SD 57501-5070 Phone: (605) 773-3705 Fax: (605) 773-3809  Elizabeth M. Lipp as Utility Analysts, Inc. d/b/a Basic Long Distance. "On my January 10, 1998, U S WEST telephone bill discovered long distance charges from an unauthorized carrier. This ongoing situation has caused me to have to make several telephone calls. After lengthy discussions with U S Billing, Inc. I have agreed to provide some retroactive payments for the charges. I have also agreed to provide a refund for the charges. I have also agreed to provide a refund with them." I wish that the Commission grant the following relief: "Prohibit any Utility Analysts, Inc. including aliases, from doing business in the state of South Dakota. Prohibit their agent, U S Billing, Inc. from doing business in the state of South Dakota until they can demonstrate they can and will actually protect consumer information. Require Utility Analysts, Inc. to reverse all charges they have had processed for all consumers in the state of South Dakota. Require Utility Analysts, Inc. and their agents to immediately pay me \$5,000.00 for putting me and my friend in the emotionally distressing position of being billed for long distance charges. Address the issue of my being billed for long distance charges. I have paid about, and billed, my friend, \$1,000.00 for copies, postage, long distance charges, 900 number assistance, time, mileage, travel, loss, etc." (Staff: LH/CH)	04/15/98	NA
<b>WAIVER OF SWITCHED ACCESS RULES</b>			
TC98-072	Petition by Fort Randall Telephone Company for an extension of the waiver of the switched access rules granted in TC98-125. Fort Randall requests that it be allowed to continue changing a seven cent switched access rate in all seven of its exchanges until the Commission approves a new rate, based on a cost study conducted for all of Fort Randall's exchanges using calendar year 1998 data. Fort Randall did not acquire the Tabor, Centerville and Viborg exchanges until June 1, 1997, and it does not have 12 months of actual operations and traffic information for these three exchanges. (Staff: HBC/CH)	04/23/98	05/08/98
TC98-073	Petition by Vidian Telephone Company for an extension of the waiver of the switched access rules granted in TC98-125. Vidian requests that it be allowed to continue changing a seven cent switched access rate in the eight exchanges it purchased from GTE in calendar year 1998 data. This request has no effect on the switched access rate being changed in the seven exchanges purchased from GTE in calendar year 1998 data. Vidian requests that it be allowed to continue changing a seven cent switched access rate in the eight exchanges it purchased from GTE in calendar year 1998 data. This request has no effect on the switched access rate being changed in the seven exchanges purchased from GTE in calendar year 1998 data. Vidian requests that it be allowed to continue changing a seven cent switched access rate in the eight exchanges it purchased from GTE in calendar year 1998 data. This request has no effect on the switched access rate being changed in the seven exchanges purchased from GTE in calendar year 1998 data. (Staff: HBC/CH)	04/23/98	05/08/98

**NONCOMPETITIVE TELECOMMUNICATIONS FILING**

PAGE 1 OF 2



BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION OF VIVIAN ) ORDER GRANTING  
TELEPHONE COMPANY FOR APPROVAL OF ) EXTENSION OF WAIVER OF  
EXTENSION OF WAIVER OF SWITCHED ) SWITCHED ACCESS RULES  
ACCESS RULES )  
)  
)

TC98-073

On April 21, 1998, the South Dakota Public Utilities Commission (Commission) received a petition by Vivian Telephone Company (Vivian) for an extension of the waiver of the switched access rules granted in TC98-125. Vivian requests that it be allowed to continue charging a seven cent switched access rate in all eight of its exchanges that it purchased from U S WEST Communications, Inc., until the Commission approves a new rate based on a cost study using calendar year 1998 data. This request has no effect on the switched access rate being charged in the Vivian exchanges purchased from GTE. Vivian did not acquire the Lesterville, Gregory, Witten and Clearfield exchanges until June 1, 1997, and it does not have twelve months of actual operations and traffic information for these four exchanges.

On April 23, 1998, the Commission electronically transmitted notice of the filing and the intervention deadline of May 8, 1998, to interested individuals and entities. No parties have filed for intervention.

At its regularly scheduled meeting of May 28, 1998, the Commission considered the matter along with comments from Staff.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-34A and ARSD 20:10 27 02. Further, the Commission finds that it has good cause to grant an extension of the waiver of the switched access rules and petitioner shall file its cost study by May 1, 1999. It is therefore

ORDERED, that the request for an extension of the waiver of switched access rules is hereby granted, and it is further

ORDERED, that petitioner shall file its cost study by May 1, 1999.

Dated at Pierre, South Dakota, this 4<sup>th</sup> day of June, 1998.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: William Kalle

Date: 6/5/98

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION

James A. Burg  
JAMES A. BURG, Chairman

Pam Nelson  
PAM NELSON, Commissioner

Laska Schoenfelder  
LASKA SCHOENFELDER, Commissioner