

TC98-153

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September 11, 1998

RECEIVED

SEP 14 1998

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Mr. William Bullard, Jr.
Executive Director
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

Re: *Extension of Switched Access Rules - East Plains Telecom, Inc.*
(our file no. BT-280-01)

Dear Director Bullard:

Enclosed please find one original and ten copies of a Petition for Extension of Switched Access Rules for East Plains Telecom, Inc., a wholly-owned subsidiary of Baltic Telecom Cooperative, Inc. We had previously submitted this, but apparently the submission was never received by the Commission. This is intended for filing with the Commission. Please contact my office if there is a filing fee, and free to contact me if you need further or have any questions. Thank you for your assistance.

Sincerely,

CUTLER, DONAHOE & MICKELSON, LLP



Brian J. Donahoe
For the Firm

BJD:rk
enclosure
cc: Greg Grablander

TC 98-153

RECEIVED

SEP 14 1998

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE
STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE SWITCHED
ACCESS RATES FOR EAST PLAINS
TELECOM, INC. TELEPHONE COMPANY

Docket Number: TC98-_____

PETITION FOR EXTENSION OF WAIVER OF SWITCHED ACCESS RULES

East Plains Telecom, Inc. ("East Plains") petitions for an extension of the waiver of the Switched Access Rules granted in TC96-125. East Plains requests that it be allowed to continue charging a seven (7) cent Switched Access rate in all of its exchanges until the South Dakota Public Utilities Commission ("Commission") approves a new rate, based on a cost study conducted for all of East Plains' exchanges using calendar year 1998 data. The following reason 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 Alcester and Hudson Exchanges, dated October 24, 1996, in Docket TC96-125 ("October 1996 Order"), requires East Plains 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 East Plains agreed to purchase the Alcester and Hudson 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 the period from one year of closing of the sale or May 1, 1998, whichever occurs first" reflected that assumption. Had East Plains 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, East Plains did not acquire the Alcester and Hudson 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 East Plains did not acquire the two exchanges until June 1, 1997, it does not have the required 12 months of actual operating and traffic information.

E. Further support for an extension of the waiver results from the fact that two new switches have been installed, along with new transport facilities between the switches and the subtending host end offices. These switch and transport changes are now completed. Prior to these changes, USWC provided the switching for the Alcester and Hudson exchanges. The switch changes and rehomeing of the two end offices 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 until a Switched Access Cost Study using 1998 calendar year information can be performed.

F. If an extension of the waiver is granted, would continue charging the current 7 cent Switched Access rate 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 East Plains as a condition to East Plains' 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 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 minutes is a reasonable interim rate until May 1, 1997, and finds a good cause to waive its switched access rules pursuant to 10:10:17:02.

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 be 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, East Plains' 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 Alcester and Hudson 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 TC97-042, 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.

In addition, Fort Randall Telephone Company and Vivian Telephone Company have made the same request and there will be a more uniform application process and transition for

all former USWC exchanges if the Commission grants the requested extension. See Dockets TC98-072 and TC98-073.

Therefore, East Plains Telecom, Inc., respectfully requests that its petition for an extension of the waiver of the Switched Access Rules be granted until such time as calendar year 1997 cost studies can be provided.

Dated: September 11, 1998

CUTLER, DONAHOE & MICKELSON, LLP

Brian J. Donahoe

Brian J. Donahoe
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South Dakota Public Utilities Commission
WEEKLY FILINGS

For the Period of September 11, 1998 through September 17, 1998

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five business days of this filing. Phone: 605-773-3705. Fax: 605-773-3809.

TELECOMMUNICATIONS

TC97-126 In the Matter of the Filing by U S West Communications, Inc. For Approval of an Interconnection Agreement Between U S West Communications, Inc. And Dakota Telecom, Inc. And Dakota Telecommunications Systems, Inc.

Amended Interconnection Agreement between Dakota Telecom, Inc. and U S WEST Communications, Inc. This amendment adds or replaces language in the original agreement. Any party wishing to comment on the parties' amendment may do so by filing written comments with the Commission and the parties to the agreement no later than October 7, 1998. Parties to the amendment may file written responses to the comments no later than October 26, 1998.

Staff Attorney: Camron Hoseck
Date Filed: September 17, 1998
Responses Due: October 7, 1998.

TC98-153 In the Matter of the Petition of East Plains Telecom, Inc., for Approval of Extension of Waiver of Switched Access Rules

Petition by East Plains Telecom, Inc. for an extension of the waiver of the switched access rules granted in TC96-125. East Plains requests that it be allowed to continue charging a seven cent switched access rate in the two exchanges it purchased from U S WEST Communications until the Commission approves a new rate, based on a cost study using calendar year 1998 data. East Plains did not acquire the Alcester and Hudson exchanges until June 1, 1997, and it does not have 12 months of actual operations and traffic information for these two exchanges.

Staff Attorney: Karen Cremer
Staff Analyst: Harlan Best
Date Filed: September 14, 1998
Intervention Deadline: October 2, 1998

TC98-154 In the Matter of the Application of New Concept Communications, LLC for a certificate of authority to provide telecommunications services in South Dakota.

Application by New Concept Communications, LLC for a Certificate of Authority to provide resold interexchange telecommunications services in South Dakota including intrastate long distance, travel and debit cards, and directory assistance

Staff Attorney: Camron Hoseck
Staff Intern: Kylie Tracy
Date Filed: September 15, 1998
Intervention Deadline: October 2, 1998

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

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| IN THE MATTER OF THE PETITION OF EAST) PLAINS TELECOM, INC. FOR APPROVAL OF) EXTENSION OF WAIVER OF SWITCHED) ACCESS RULES) | ORDER GRANTING EXTENSION OF WAIVER OF SWITCHED ACCESS RULES TC98-153 |
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On September 14, 1998, the South Dakota Public Utilities Commission (Commission) received a petition by East Plains Telecom, Inc. (East Plains) for an extension of the waiver of the switched access rules granted in TC96-125. East Plains requests that it be allowed to continue charging a seven cent switched access rate in all of East Plains' 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. East Plains did not acquire the Alcester and Hudson exchanges until June 1, 1997, and it does not have twelve months of actual operations and traffic information for these two exchanges.

On September 17, 1998, the Commission electronically transmitted notice of the filing and the intervention deadline of October 2, 1998, to interested individuals and entities. No parties have filed for intervention.

At its regularly scheduled meeting of November 25, 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 4th day of December, 1998.

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| 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: <u>Melaine Kaebe</u> |
| Date: <u>12/8/98</u> |
| (OFFICIAL SEAL) |

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner