



ORBITCOM

Local - Long Distance Communications

TC05-192

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

November 14, 2005

South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501-5070

Re: Exemption from Developing Company
Specific Cost-Based Switched Access Rates

OrbitCom, Inc., fka VP Telecom was granted a previous waiver in TC02-107 and would now like to come before the Commission and request a continued waiver in developing Specific Cost-Based Switched Access Rates using the formula in ARSD 20:10:27:12.

Please find enclosed 10 copies of OrbitCom's petition for a continued waiver.

Sincerely,

Brad VanLeur
President

Encl.

II. FACTS

- A. OrbitCom is authorized to provide facilities-based competitive local exchange telecommunication services and intrastate toll service, pursuant to a Commission Order.
- B. OrbitCom requests a waiver of the switched access cost study components contained in ARSD 20:10:27:07 for the following reasons:
 1. OrbitCom is a small company with *limited financial, technical and managerial resources.*
 2. OrbitCom does not have the resources necessary to determine company-specific cost-based intrastate switched access rates.
 3. The additional costs associated with developing company-specific cost-based intrastate switched access rates outweigh any benefit to the consumer or customer.
 4. OrbitCom provides services through resale and platform unbundled network elements (“UNE-P”) obtained from Qwest Communications, the incumbent local exchange company (ILEC”).
 5. Because OrbitCom obtains all of its switched access elements from the ILEC, its costs for switched access service elements are at least as much as the ILEC’s costs for those elements.

6. OrbitCom proposes to mirror the intrastate switched access rates of the ILEC contained in Qwest Access Service Tariff, State of South Dakota Sections 3.9 and 6.8.
 7. The use of rates identical to the ILEC's rates for interstate switched access will result in less confusion to long distance providers and to consumers that review and evaluate the companies' rates for provision of switched access services.
- C. OrbitCom requests a waiver of ARSD 20:10:27:12 for the following reasons:
1. ARSD 20:10:27:12 would require OrbitCom to base its intrastate switched access rates on the costs of all the telecommunications companies with less than 100,000 access lines.
 2. Under ARSD 20:10:27:12 OrbitCom would be required to charge a substantially higher intrastate switched access rate than the ILEC.
 3. OrbitCom proposed rates follow the Federal Communications Commission guidelines that generally prohibit switched access rates higher than those charged by the ILEC. In the Matter of Access Charge Reform, Seventh Report and Order and Further Notice of Proposed Rulemaking, FCC 01-146, April 27, 2001.

III. Legal Authority

Because the proposed tariff is an intrastate switched access tariff, the Public Utilities Commission has jurisdiction over this matter; authority to temporarily waive or suspend any rule in chapters 20:10:27 to 20:10:29, inclusive; and authority to waive company-specific cost-based switched access rates pursuant to SDCL Chapter 49-1-11, 49-31-5 and 49-31-18 and ARSD 20:10:27:01 et seq.

IV. Relief Requested

OrbitCom respectfully requests 1) waiver of the switched access cost study components of ARSD 20:10:27:07; 2) waiver of the process to determine switched access rates under ARSD 20:10:27:12 that requires the Petitioner to base its switched access rates on the costs of all the telecommunications companies with less than 100,000 access lines.

Dated: November 14, 2005

Respectfully submitted,

ORBITCOM, INC.

By: 

Brad VanLeur, President
OrbitCom, Inc.
1701 N. Louise Ave.
Sioux Falls, SD 57107
Phone: (605) 977-6900
Fax: (605) 373-9355
Email: bvanleur@svtv.com