

Gary Hanson, Chair Steve Kolbeck, Vice Chair Dustin Johnson, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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August 8, 2008

Patricia Van Gerpen SD Public Utilities Commission 500 E. Capitol Ave Pierre, SD 57501 VIA ELECTRONIC FILING ONLY

Re: TC07-107

Dear Ms. Van Gerpen:

Enclosed for filing please find the Consent Order entered into by all parties to the above referenced docket. The Order reflects the agreement among parties to resolve all outstanding issues and to close the docket. Staff, on behalf of all parties to the Order requests Commission approval and entry of the Consent Order.

Thank you,

Kara Semmler

cc. Dave Gerdes, Meredith Moore

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

)

IN THE MANNER OF REDUCED RATE LONG DISTANCE

CONSENT ORDER

In resolution of the above manner and in lieu of a formal hearing, the undersigned parties do hereby agree to the following:

Reduced Rate Long Distance, LLC (herein "Reduced Rate"), with a business address of 1800 Pembrooke Drive, Suite 300, Orlando, FL 32810, is a telecommunications service provider doing business in the State of South Dakota;

Reduced Rate is aware that the South Dakota Public Utilities Commission conducted an investigation, after receipt of twenty-one informal complaints, alleging Reduced Rate performed an unauthorized change in long distance carrier, or in some circumstances added a telephone charge without providing a service;

This Consent Order does not constitute any finding against or an admission by Reduced Rate for any purpose of any fact or of a violation of any state or federal law, rule, or regulation, nor does this Consent Order constitute evidence of any liability, fault, or wrongdoing;

Reduced Rate freely enters this Consent Order for settlement purposes only to resolve all claims the South Dakota Public Utilities Commission may have as of the date of this Consent Order regarding Reduced Rate's activities in the State of South Dakota without adjudication of any issue of fact or law;

Reduced Rate denies the allegations that it engaged in any conduct which would constitute a violation of any South Dakota law, rule or regulation, specifically including but not limited to SDCL § 49-31-89, SDCL § 49-31-89 and A.R.S.D. § 20:10:34:06. Reduced Rate has taken affirmative steps to ensure that all of its representatives comply with its policies. The Commission has not received any additional complaints since opening this docket;

Six of the twenty-one consumer contacts filed a formal complaint. All such formal complaints were separately docketed with the Commission.¹ These dockets were resolved by Reduced Rate independent of this Consent Order. Either Reduced Rate or the individual consumers will make the appropriate filings to dismiss the individual formal complaint dockets. No further action shall be taken by the Commission in regard

¹ The Commission assigned the following docket numbers to the formal complaints: CT07-001 through CT 07-005 and CT 08-001.

to the six formal complaints in the context of this Show Cause docket and resulting Consent Order;

One of the twenty-one consumer contacts has gone out of business, cannot be reached and is not part of this settlement;

Fourteen of the twenty-one consumer contacts remain part of this Show Cause docket;

Reduced Rate is aware of and understands the nature of the fourteen complaints informally filed with the Commission and has been informed that it has the right to counsel, notice, hearing and appeal and that by agreeing to sign this Consent Order, waives these rights;

Pursuant to SDCL 49-31-94 the Commission may impose penalties up to \$20,000 per complaint if in fact slamming or cramming occurred. In lieu of such a determination and possible commission penalty, however, and in the spirit of resolution, Commission Staff requested a monetary fine be paid directly to the fourteen informal consumer complaints;

Without admitting any liability or wrongdoing, Reduced Rate, in the interests of resolving this matter without further time, expense, and litigation, agrees to pay Two Hundred Dollars (\$200) directly to each of the fourteen informal complainants in lieu of contesting the matter formally and further agrees to conduct itself in accordance with the telecommunications laws and regulations of the State of South Dakota;

Additionally, Reduced Rate agrees to completely reimburse all fourteen informal complainants and affirmatively states that it ceased any and all collection efforts on those outstanding and unpaid billing statements sent to the *informal* complainants. By the execution of this Consent Order and the payment of Two Hundred Dollars (\$200) per informal complainant, reimbursement and correction of any collection action and pursuant to this Consent Order, Reduced Rate waives its right to contest the allegations contained in this Consent Order;

Future violations, if found by Order of this Commission to be slamming or cramming violations after appropriate notice and exercise of all due process rights afforded to Reduced Rate under the laws and administrative rules of the State of South Dakota, are subject to the penalty contained in SDCL 49-31-94;

In return for Reduced Rate agreeing to and complying with the provisions of this Consent Order, the South Dakota Public Utilities Commission agrees not to proceed to administrative hearing and agrees that this Consent Order will constitute the final disposition of Commission Staff's Show Cause action in response to the fourteen informal complaints; and

Wherefore, good cause appearing from the foregoing, it is hereby ORDERED that Reduced Rate pay a monetary penalty in the amount of Two Hundred Dollars (\$200) payable to the consumers listed on the attached Exhibit A. The payment shall be sent to the South Dakota Public Utilities Commission for proper documentation, payment due in full within thirty (30) days from the date the South Dakota Public Utilities Commission signs this Order, and that Reduced Rate abide by the agreement made by it in this Consent Order; and it is

FURTHER ORDERED, that the provisions of this Consent Order shall be effective from the date the South Dakota Public Utilities Commission signs this Order.

Dated at Pierre, South Dakota, this _____ day of July, 2008

Patricia Van Gerpen Executive Director South Dakota Public Utilities Commission

day of July, 2008 Dated at this

for Midcontinent Communications 3901 N. Louise Ave Sioux Falls, SD 57106

I have read and understand the terms of this Consent Order and the waiver of my due process rights and voluntarily enter into this Consent Order.

Dated this ______ day of <u>August</u>, 2008

for Reduced Rate