

## **COMMISSION STAFF MEMORANDUM IN SUPPORT OF SETTLEMENT STIPULATION**

**TO:** Commissioners Hanson, Kolbeck and Johnson  
Commission Counselors Smith and Wiest  
Commission Advisor Rislov

**FROM:** Keith Senger 

**DATE:** July 25, 2008

**RE:** TC07-128 - In the Matter of the Filing by Sancom, Inc. d/b/a Mitchell Telecom for Approval of its Intrastate Switched Access Tariff and for an Extension of an Exemption from Developing Company Specific Cost-Based Switched Access Rates.

Staff submits this memorandum explaining the Settlement Stipulation filed by Staff and Sancom, Inc. d/b/a Mitchell Telecom in the above referenced docket.

### **BACKGROUND**

On December 28, 2007, Sancom, Inc. d/b/a Mitchell Telecom (Sancom) filed a petition in accordance with ARSD 20:10:27:11 requesting an extension of an existing exemption from filing a cost study as required by ARSD 20:10:27:07. Sancom proposed an intrastate switched access rate of \$0.1150. Sancom indicated this rate was \$0.0075 per access minute lower than the rate established by ARSD 20:10:27:12. Sancom indicated it would accept this rate in order to be consistent with other ILEC-owned CLECs in the state. This requested rate is the sum of three component rates: (1) Carrier Common Line Access Service per Access Minute - \$0.0548; (2) Local Switching (End Office) per Access Minute - \$0.0231; and (3) Local Transport per Access Minute - \$0.0371.

Staff issued a number of data requests. Sancom responded to some, objected to some and requested confidential treatment of others. During the duration of this docket, Staff, Sancom and its consultant engaged in numerous settlement discussions. Those settlement discussions resulted in the Settlement Stipulation filed with the Commission on July 21, 2008.

### **OVERVIEW OF THE SETTLEMENT**

Under the terms of this Stipulation, Sancom will phase its intrastate switched access rate down to that of the ILEC Qwest rates. Effective July 1, 2008, Sancom will lower its intrastate switched access rate from the current rate of \$0.1225 to \$0.09145, a reduction of \$0.03105 per access minute. On July 1, 2009, Sancom will again lower its rate to \$0.07593, a further reduction of \$0.01552. On July 1, 2010, Sancom will lower its rate to a level that either mirrors or is lower than the ILEC Qwest intrastate switched access rate existing at that time (currently at \$0.0604). These rates will essentially be frozen as a maximum rate until: (1) the effective date of any new FCC rules that would require changes to the elements of this Stipulation, (2) the effective date of the new SDPUC rules that would require changes to the elements of this Stipulation, or (3) July 1, 2013. During this time, Sancom cannot file for any intrastate access rate increases. However, should the rates during the freeze period exceed the rate as determined by ARSD 20:10:27:12, Sancom will have to decrease its tariffed rates so not to exceed the rate as determined by ARSD 20:10:27:12.

## STAFF SUPPORT FOR THE SETTLEMENT

As the Commissioners are very well aware, Commission Staff has worked to control CLEC intrastate switched access rates. This process began back in 1999 when the Commission's first CLEC looked at ARSD 20:10:27:12 and realized it made little or no sense for a CLEC competing against Qwest to be able to charge a LECA Plus rate. That CLEC, on its own accord, agreed to mirror the ILEC Qwest intrastate switched access rate. From that time forward a majority of the CLECs filing intrastate switched access tariffs in South Dakota agreed to mirror the Qwest rate.

In response to a nonfunctioning competitive market-place for access rates and in an effort to prevent CLECs from exploiting market power of its monopoly access rates, the FCC issued the FCC 01-146, Seventh Report and Order and Further Notice of Proposed Rulemaking. In that Order the FCC essentially required a phased-in reduction of CLEC interstate access rates not to exceed the ILEC rates.

Commission Staff has been using this FCC Order as a road map for South Dakota intrastate switched access rates. Many CLECs active in nationwide jurisdictions understood the FCC Order and Commission Staff's reasoning. They agreed to mirror the ILEC Qwest rates for the South Dakota intrastate jurisdiction. In fact, of the 29 CLECs with intrastate access tariffs, 22 have agreed to the ILEC Qwest rates. An additional two CLECs have rates that are slightly above the ILEC Qwest rate. The five remaining have rates significantly higher than the ILEC Qwest rate. Three of these five are serving in rural areas of South Dakota and Staff believes their service territories are similar to LECA type service territories versus a Qwest service territory, thus justifying a somewhat higher rate. Staff has worked diligently with the two remaining companies (Sancom being one) to get its CLEC intrastate access rate down. This Settlement accomplishes just that. It follows the FCC road map and phases Sancom's rates down to that or lower than the ILEC rates.

## COMMISSION ACTION REQUESTED

As supported above, Staff requests the Commission approve the Settlement Stipulation filed between Staff and Sancom in Docket TC07-128.