

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

IN THE MATTER OF THE FILING) TC08-042
BY MCIMETRO ACCESS TRANSMISSION)
SERVICES LLC D/B/A VERIZON ACCESS)
TRANSMISSION SERVICES FOR APPROVAL)
OF ITS ACCESS SERVICES TARIFF.)

**PETITION FOR EXEMPTION UNDER ARSD 20:10:27:11 FROM
DEVELOPING COMPANY-SPECIFIC COST-BASED SWITCHED ACCESS RATES AND
FOR WAIVER OF ARSD 20:10:27:12**

MCImetro ACCESS TRANSMISSION SERVICES LLC d/b/a VERIZON
ACCESS TRANSMISSION SERVICES ("MCImetro") by this petition
requests that the Commission exempt it generally from the
ratemaking requirements found in ARSD 20:10:27 through 29, and
permit it to set its intrastate switched access rates under ARSD
20:10:27:11. In addition, MCImetro requests that the Commission
waive the requirements found in ARSD 20:10:27:12.

AND AS GROUNDS THEREFOR, MCImetro states:

1. MCImetro is a competitive local exchange carrier
("CLEC") operating in South Dakota. It provides local exchange
services using network elements provided by Qwest Corporation
("Qwest") pursuant to an interconnection agreement, as well as
platform services provided by Qwest through a commercial
agreement known as the Qwest Platform Plus ("QPP") Master

Services Agreement. In addition to providing retail local exchange services, MCImetro provides intrastate switched access services to long distance companies for originating or terminating long distance calls.

2. MCImetro's access line count has been declining since July 2006, and as of the end of April 2008, MCImetro had fewer than 50 access lines in South Dakota.

3. MCImetro has not previously prepared cost studies as contemplated by the Commission's switched access rules codified at ARSD 20:10:27 through 20:10:29 to set its rates. Rather, it relies on the highly competitive telecommunications market to set its prices. Accordingly, it has proposed rates in its switched access tariff that are equivalent to the composite switched access rates charged by Qwest Corporation ("Qwest") of approximately \$0.06 cents per minute.

4. MCImetro has also refrained from proposing rates based on the rates charged by local exchange carriers ("LECs") with fewer than 100,000 access lines, as contemplated by ARSD 20:10:27:12. Using such rates as a surrogate would result in rates that are nearly double what MCImetro has proposed in its pending tariff. For example, members of the Local Exchange

Carrier Association ("LECA") have been authorized by this Commission to charge composite switched access rates of \$0.125 per minute for originating and terminating long distance calls. MCImetro does not want to charge the higher intrastate switched access rates that would result from applying ARSD 20:10:27:12.

5. Given its declining access line count and the fact the MCImetro, as a CLEC, has never prepared cost studies to set intrastate switched access rates, it does not have readily available inputs to prepare South Dakota-specific cost studies to establish its switched access rates. In addition, the resources that would be required to prepare such cost studies, including the cost to hire experts for such preparation, would outweigh the purported benefit of developing such cost studies. That is particularly so when MCImetro is seeking to set rates at the same level as those charged by its largest competitor in the state, Qwest, rather than, for example, the higher rates approved by this Commission for LECA members.

6. Accordingly, MCImetro requests that it be exempted from developing cost-based intrastate switched access rates, as permitted by ARSD 20:10:27:11, and that it not be required to set rates pursuant to ARSD 20:10:27:12.

7. This Commission has recognized that preparation of a cost study is costly, labor-intensive and consumes a great deal of resources. For example, earlier this year Qwest filed an application seeking to avoid filing the cost studies required under ARSD 20:10:27:07. Qwest requested the waiver because, it asserted, "(1) producing such a study is costly and consumes a great deal of resources; and (2) Qwest does not intend to raise access rates at this time, although preliminary analysis indicates that a cost study would likely support higher rates than even those from the last study." The Commission found that these facts constituted good cause and granted Qwest's waiver request in an order issued on February 27, 2008.¹

8. Similar requests for waivers of the cost justification requirements were granted to Qwest and South Dakota Network, LLC on essentially the same grounds in 2005.²

9. In addition, OrbitCom, Inc., a CLEC, was granted a waiver of the requirement to prepare cost studies by agreeing to

¹TC08-003, *In the Matter of the Request by Qwest Corporation for a Waiver of a Requirement to file a Switched Access Cost Study*, Order entered February 27, 2008.

²TC05-006, *In the Matter of the Request by Qwest Corporation for a Waiver of a Requirement to file a Switched Access Cost Study*, Order entered March 17, 2005; TC05-062, *In the Matter of the Request by South Dakota Network, LLC for a Waiver of a Requirement to file a Switched Access Cost Study*, Order entered June 30, 2005.

set its intrastate switched access rates at the rates set by Qwest.³ The Commission granted OrbitCom's waiver request on almost identical grounds set forth here: namely, OrbitCom obtained all of its switched access elements from Qwest, and thus asserted that its costs for switched access service elements were at least as much as Qwest's costs for those elements. The Commission also accepted OrbitCom's argument, similar to that made here by MCImetro, that applying ARSD 20:10:27:12 should not be required, particularly since it would result in much higher switched access rates than were being proposed.

10. Like OrbitCom, MCImetro seeks to avoid preparing and filing a cost study to support its proposed switched access rates because preparation of such a study would be costly and consume a great deal of resources. Moreover, all such effort would be unnecessary because MCImetro agrees to set its intrastate switched access rates at the same level as Qwest's rates.

³TC05-192, *In the Matter of the Filing by OrbitCom, Inc. f/k/a VP Telecom, Inc. for an Extension of an Exemption from Developing Company Specific Cost-Based Switched Access Rates*, Order issued December 14, 2005 (granting OrbitCom a waiver for so long as OrbitCom's intrastate switched access rate is equal to or less than that of Qwest's intrastate switched access rate or until the Commission orders otherwise).

WHEREFORE, MCImetro requests that the Commission grant it an exemption under ARSD 20:10:27:11 and grant it a waiver of the requirements found in ARSD 20:10:27:12, just as it has for other carriers, as described above.

Dated this 21st day of May, 2008.

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CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 21st day of May, 2008, he served electronically a true and correct copy of the foregoing in the above-captioned action to the following at their last known addresses, to-wit:

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