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February 2, 2009

Patty Van Gerpen
SD Public Utilities Commission
500 E Capitol
Pierre SD 57501

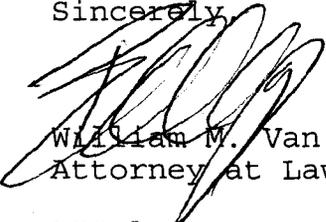
Re: In the Matter of the Filing by AT&T Comm. of the Midwest, Inc.
for Approval of its Access Services Tariff and for Exemption from
Developing Specific Cost-Based Switched Access Rates
Docket TC08-

Dear Patty:

Enclosed please find for filing a Petition for Exemption under ARSD
20:10:27:11 from Developing Specific Cost-Based Switched Access
Rates and for Waiver of ARSD 20:10:27:12.

If you have any questions please feel free to contact me.

Sincerely,



William M. Van Camp
Attorney at Law

WVC:lrd

enclosure

cc: Isabelle Salgado

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

IN THE MATTER OF THE FILING BY)
AT&T COMMUNICATIONS OF THE)
MIDWEST, INC. FOR APPROVAL OF ITS) Docket #TC08-
ACCESS SERVICES TARIFF AND FOR)
EXEMPTION FROM DEVELOPING)
SPECIFIC COST-BASED SWITCHED)
ACCESS RATES)

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

AT&T Communications of the Midwest, Inc. (“AT&T”) hereby requests that the Public Utilities Commission of the State of South Dakota (“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, AT&T requests that the Commission waive the requirements found in ARSD 20:10:27:12.

AT&T hereby states:

1. AT&T is a competitive local exchange carrier (“CLEC”) operating in South Dakota pursuant to the final order issued in TC96-038, dated October 22, 1996. AT&T provides retail local exchange service in South Dakota, as well as intrastate switched access services to long distance companies for originating and terminating long distance calls.

2. AT&T 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 switched access rates. Instead, in TC99-082, AT&T requested and the Commission approved a waiver from the requirements to file such cost studies. In that proceeding, the Commission approved AT&T’s switched access tariff which contained switched access rates that were below the composite switched access rates charged by U S West, which is now Qwest Corporation

(“Qwest”). AT&T’s composite switched access rate of \$0.0431 per minute has not changed since December 8, 1999 when it was originally approved by the Commission.

3. In November 2005, AT&T was acquired by SBC Communications, Inc. Following the merger, many employees within the combined entities left the company and job responsibilities were reassigned. It recently has come to AT&T’s attention that filings before the Commission pursuant to ARSD 20:10:27:12, were not made by AT&T in 2002, 2005 or 2008.

4. Since 2002, AT&T has collected, in aggregate, approximately \$24,500.00 in switched access fees in South Dakota. This averages approximately \$3,500.00 in switched access revenues per year.

5. AT&T has never prepared a cost study to set intrastate switched access rates nor does it gather the state-specific cost data required to prepare a South Dakota-specific cost study. The expenditure of time and resources required to prepare such a cost study would likely outweigh any benefit of developing such cost studies for the number of switched access customers served by AT&T in South Dakota.

6. Accordingly, it is extremely unlikely that a cost study would result in an adjustment of AT&T’ switched access rates at a rate lower than the current charge of \$0.0431 per minute, which represents a 22% discount over Qwest’s current intrastate switched access rates.

7. Additionally, this Commission has recognized that preparation of a cost study is costly, labor-intensive and consumes a great deal of resources. For example, in 2008 Qwest filed an application seeking a waiver of the requirement to file a switched access cost study. 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 the requested waiver in an order dated February 27, 2008.¹

8. Similar requests for waivers of the cost justification requirements were granted in 2008 to MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services,² PrairieWave Community Telephone, Inc.,³ PrairieWave Telecommunications, Inc.,⁴ and Sancom, Inc. d/b/a Mitchell Telecom⁵ on essentially the same grounds.

9. Accordingly, AT&T requests that it be exempted from developing cost-based intrastate switched access rates, as permitted by ARSD 20:10:27:11, that it not be required to set rates pursuant to ARSD 20:10:27:11, and that it not be required to set rates pursuant to ARSD 20:10:27:12. AT&T further requests that this waiver be retroactively applied to 2002.

WHEREFORE, AT&T respectfully 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 2nd day of February, 2009.

OLINGER, LOVALD, MCCAHERN & REIMERS, P.C.

/s/ filed electronically
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¹ TC08-003, *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.

² TC08-042, *In the Matter of the filing by MCImetro Access Transmission Services, LLC d/b/a Verizon Access Transmission Services for Approval of its Intrastate Switched Access Tariff and for an Exemption from Developing Company Specific Cost-Based Switched Access Rates*, order entered June 19, 2008.

³ TC07-104, *In the Matter of the Filing by PrairieWave Community Telephone Inc. for an Exemption from Developing Company Specific Cost-Based Switched Access Rates*, Order entered April 9, 2008.

⁴ TC07-118, *In the Matter of the Filing by PrairieWave Telecommunications, Inc. for an Exemption from Developing Company Specific Cost-Based Switched Access Rates*, Order entered April, 8, 2008.

⁵ 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*, Order entered October 3, 2008.

