
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE
APPLICATION OF MIDSTATE
TELECOM, INC., FOR APPROVAL OF
EXTENSION OF TIME OF EXEMPTION
FROM DEVELOPING COMPANY
SPECIFIC COST-BASED SWITCHED
ACCESS RATES

DOCKET NUMBER _____
REQUEST FOR EXTENSION OF TIME
OF EXEMPTION FROM DEVELOPING
COMPANY SPECIFIC COST-BASED
SWITCHED ACCESS RATES

COMES NOW Midstate Telecom, Inc. (Midstate), by and through its attorney, Darla Pollman Rogers, of Riter, Rogers, Wattier & Northrup, LLP, and petitions the South Dakota Public Utilities Commission (Commission) for an extension of its exemption from developing company specific cost-based switched access rates granted by the Commission in its Order dated April 25, 2006. This Motion is based on the following:

1. Midstate filed an Application for a Certificate of Authority to provide telephone services in the Qwest service areas, and particularly in the City of Chamberlain, South Dakota, on January 18, 2001. Within said Application, Midstate requested an exemption from the requirement to develop intrastate switched access rates based on company-specific costs, as such costs were unknown at the time.
2. On April 24, 2001, the Commission granted Midstate a Certificate of Authority to provide local exchange services, and the Commission also granted Midstate a one-year exemption from developing company specific cost-based switched access rates pursuant to ARSD 20:10:27:11. The Commission approved Midstate's intrastate switched access Tariff No. 1 pursuant to ARSD 20:10:27:12.

3. On April 2, 2002, Midstate filed a Motion for Extension of the one-year waiver from developing company specific cost-based switched access rates. This Motion was based on the fact that due to various other business decisions, Midstate did not offer services to customers in Chamberlain until the end of April of 2002; therefore, Midstate did not have the data upon which to develop company specific cost-based switched access rates.

4. On May 16, 2002, the Commission granted Midstate an extension of the exemption from developing company specific cost-based switched access rates pursuant to ARSD 20:10:27:11 for a period of three years, and approved the current intrastate switched access TariffNo. 1.

5. On April 25, 2006, Midstate filed a Motion that requested to continue the exemption from developing company specific cost-based switched access rates for a period of three years, and requested that the Commission approve the CUItent intrastate switched access TariffNo. 1 for that time period. (TC05-60)

6. Pursuant to an agreement with Staff, a Joint Motion for Approval of Settlement Stipulation and Settlement Stipulation were filed with the Commission on April 7, 2006.

7. The Settlement Stipulation provided that the current intrastate switched access rates for all originating and terminating intrastate access minutes would decrease from \$0.1325 to \$0.1150. The agreed upon rate was frozen until (1) six months after the effective date of FCC issued rules on its current intercarrier compensation (ICC) docket (CC Docket No. 01-92 - In the Matter of Developing a Unified Intercarrier Compensation Regime); (2) six months after the effective date of any Commission-issued rules in the rulemaking docket (RM05-002 - In the Matter of Revisions and/or Additions to the Commission's Switched Access Rules Codified in ARSD 20:10:27 through 20:10:29); or

(3) three years from the date hereof, whichever occurs first, so long as the frozen rate is not in conflict with either the new FCC ICC rules or the new SDPUC rules as referenced above. Neither condition one or two has OCCURed and the three year agreement expires in March of 2009.

8. By Order dated April 25, 2006, this Commission:

a. Granted the Joint Motion for Approval of Settlement Stipulation;

b. Approved the Settlement Stipulation;

c. Granted Midstate's request for an extension of an exemption from establishing company specific cost based switched access rates; and

d. Approved Midstate's intrastate switched access tariff no. 1 subject to and in conformity with the Settlement Stipulation.

9. In another docket dealing with the intrastate switched access rates of a CLEC, (TC07-117), this Commission determined that there are no Commission rules in effect that provide a cost study methodology for CLECs. Accordingly, on January 14, 2009, the Commission ordered that rule making docket RM05-002 be redirected from a general switched access rulemaking docket to a rulemaking docket focused on a CLEC switched access rate-setting policy. The Commission additionally directed staff to provide a straw man proposed rule for the Commission's consideration within 180 days. This rule making process is currently pending.

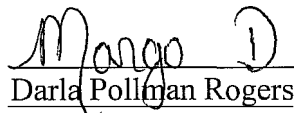
10. Midstate's current intrastate switched access rate is the result of a negotiated settlement stipulation with Staff, approved by this Commission. This Commission has further determined that the cost study rules for incumbent local exchange carriers are not necessarily appropriate for or applicable to CLECs, and that no other rules governing the methodology to calculate intrastate rates for CLECs exist, although new rules are currently being developed by Staff.

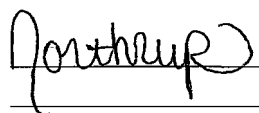
11. Producing a cost study is costly and consumes a great deal of company resources and time. It would be a hardship for Midstate to develop a cost study and rate under the rules for incumbent local exchange carriers, and then be required to file a new cost study under the new rules that establish a cost study methodology for CLECs. It is also impossible at this time to ascertain how a cost study developed by Midstate under the new rules would affect its current negotiated intrastate switched access rate, if at all.

12. For these reasons, Midstate requests this Commission to continue its current exemption from developing a company specific cost-based switched access rate for a period of six months after the effective date of the new rules adopted by the Commission in RM05-002.

13. Midstate further requests the Commission to approve its current intrastate switched access rate, tariff no. 1, as modified by the terms and conditions of the Settlement Stipulation.

DATED this 2 day of March, 2009.



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