

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

IN THE MATTER OF THE FILING BY )  
NORTHERN VALLEY COMMUNICATION, )  
L.L.C. FOR AN EXTENSION OF AN ) DOCKET NO. TC09-031  
EXEMPTION FROM DEVELOPING COMPANY )  
SPECIFIC COST-BASED SWITCHED ACCESS )  
RATES )

**PETITION FOR INTERVENTION BY AT&T COMMUNICATIONS OF THE  
MIDWEST, INC., ON PETITION OF NORTHERN VALLEY  
COMMUNICATIONS, L.L.C. FOR EXTENSION OF AN EXEMPTION FROM  
DEVELOPING COMPANY SPECIFIC COST-BASED SWITCHED ACCESS  
RATES**

Pursuant to ARSD Sec. 20:10:01:15.02, AT&T Communications of the Midwest, Inc., (“AT&T”) petitions for leave to intervene in the above captioned proceeding. In its Petition filed on May 21, 2009, Northern Valley Communications, L.L.C . (“Northern Valley”) requests that it be exempted from developing company specific cost-based switched access rates as required by ARSD 20:10:27:11 and 20:10:27:12, and that the tariff schedules reflecting rates it previously has implemented be extended for a period of three months after the effective date of the new rules adopted by the Commission in RM05-002.

On June 23, 2009, the Commission granted intervention to Midcontinent Communications. The Commission further on said date granted Qwest Communications Company, L.L.C.’s (“Qwest”) Petition for Leave to Intervene. In its Petition for Intervention, Qwest stated that its Petition was filed past the deadline as stated in the Commission notice of May 28, 2009, but that the request was not prejudicial to any party.

Pursuant to 20:10:01:15.02 the Commission may grant a Petition to Intervene which is not timely filed if granting the intervention will not unduly prejudice the rights

of other parties to the proceeding or if the denial of the Petition is shown to be detrimental to the public interest. It is the Petitioner's understanding that little to no activity has occurred in this docket since the initial filings of petitions for intervention and the Commission determination allowing the interventions, and as is hereinafter described failure to allow AT&T's intervention will have a detrimental effect to the public interest.

ARSD 20:10:27:11 places the burden on Northern Valley to establish that it lacks the necessary financial, technical or managerial resources to determine the costs behind its switched access rates based on company-specific costs or that the cost of such an exercise outweighs any benefit to consumers or customers of Northern Valley's services. In its Petition, Northern Valley indicates that it lacks the resources to develop this information, but does not meet the requirements of the Commission's rules.

As an interexchange carrier, AT&T is required to pay intrastate switched access fees to local exchange carriers, such as Northern Valley, for toll calls that originate and terminate in the state. The amount paid by AT&T for switched access calls is a significant cost component in its provision of interexchange services. Thus, AT&T has a substantial financial interest in ensuring that access fees are reasonable, accurate and consistent with the public interest. AT&T has participated in other similar dockets and has consistently advocated that it will not object to a local exchange carrier's switched access rate setting so long as they remain at or below Qwest's rates. Here, Northern Valley's proposed rates would greatly exceed those of Qwest. As such, granting a waiver to Northern Valley of the Commission's rule that requires company-specific, cost-based

switched access rates and allowing it to charge switch access rates of \$0.115 would inevitably have an adverse impact on AT&T and its customers.

AT&T does not have control over who the local end user chooses as its exchange carrier and so AT&T is thus subjected to costs driven by the choice of the consumer. Unbeknownst to the consumer, his act of choosing Northern Valley over the incumbent Qwest in the same location, significantly increases the switched access fees which AT&T must pay to provide service to that consumer. If continued unchecked, the unsubstantiated establishment of such rates and charges necessarily would have an impact on AT&T's business in South Dakota, how it serves its customers in South Dakota and how it continues to provide competitive services to the citizens of this state.

AT&T has a strong and substantiated interest in ensuring that CLEC and LEC switched access rates remain at or below the current Qwest rate.

**WHEREFORE** AT&T requests that it be granted intervention status in this proceeding.

Respectfully submitted this 4<sup>th</sup> day of August, 2009.

OLINGER, LOVALD, MCCAHERN & REIMERS, PC

*/s/ filed electronically*

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CERTIFICATE OF SERVICE

William M. Van Camp hereby certifies that on the 4<sup>th</sup> day of August, 2009, he mailed by United States mail, first class postage thereon prepaid, a true and correct copy of the Petition for Intervention by AT&T Communications of the Midwest, Inc., to Petition of Northern Valley, Inc., for an Exemption in the above-captioned action to the following at their last known addresses, to-wit:

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