



**South Dakota Telecommunications Association**  
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January 28, 2010

Ms. Patty Van Gerpen, Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Ave.  
State Capitol Building  
Pierre, SD 57501

RE: Docket TC10-001, In the Matter of the Application of IntelPeer, Inc. for a Certificate of Authority to Provide Inter-exchange Telecommunications Services and Local Exchange Services in South Dakota

Dear Patty:

Enclosed for filing in the above referenced docket you will find the electronic original of a "SDTA Petition to Intervene."

As is evidenced by the Certificate of Service attached to the Petition, service has been made to a representative of IntelPeer, Inc.

Thank you for your assistance in filing and distributing copies of this Petition.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Coit", written in a cursive style.

Richard D. Coit  
SDTA Executive Director and General Counsel

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

<b>IN THE MATTER OF THE APPLICATION OF</b>	)	
<b>INTELEPEER, INC. FOR A CERTIFICATE</b>	)	
<b>OF AUTHORITY TO PROVIDE INTEREXCHANGE</b>	)	<b>Docket No. TC10-001</b>
<b>AND LOCAL EXCHANGE SERVICES IN</b>	)	
<b>SOUTH DAKOTA</b>	)	

**SDTA Petition to Intervene**

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.

2. On or about January 8, 2010, IntelPeer, Inc., hereinafter referred to as "IntelPeer, Inc.," filed an "Application for a Certificate of Public Convenience and Necessity" with the Commission seeking authorization to provide "facilities based and resold local exchange telecommunications services throughout the State of South Dakota."

3. In regards to local exchange service authority, paragraph 9 of IntelPeer's Application states that "IntelPeer intends to provide local exchange service in the areas served by Qwest and does not plan to provide service in areas of small or rural local exchange carriers." Despite this statement, IntelPeer goes on to state that it "seeks statewide authority so that it may expand into other service areas as market conditions warrant and additional service areas become open to competition."

4. If IntelPeer is seeking statewide certification for local exchange telecommunications services, the provisions of SDCL § 49-31-70 and ARSD § 20:10:32:04 are applicable and require that notice of the application be provided to other, already certified local exchange carriers. No indication is given by the Application as to whether IntelPeer has given this notice.

5. All of the SDTA member companies operate as “rural telephone companies” for purposes of the Federal Telecommunications Act of 1996 and also the state laws enacted in 1998 addressing local exchange competition (SDCL § 39-31-69, et. seq.). If the Application filed by IntelPeer seeks a statewide certificate of authority for local exchange services, clearly all of the SDTA member local exchange carriers (LECs) have an interest in and stand to be impacted by this proceeding. SDTA seeks intervention herein based on the individual interests of each of its member LECs and based on their common interests to ensure that the rural safeguard provisions contained in the state statutes and within the Commission’s administrative rules are properly applied. With respect to the Application of IntelPeer, SDTA has a number of concerns.

6. SDTA first believes that the Application, insofar as it relates to certification for local exchange services, is deficient for failing to provide all of the information required by the Commission’s administrative rules. Most importantly, there is nothing in the application related to the additional service obligations imposed on local service providers in rural service areas pursuant to SDCL § 49-31-73 and ARSD §§ 20:10:32:15 thru 20:10:32:17. Before granting IntelPeer any certificate of authority that would authorize it to extend its local telecommunications services into any rural service area, the Commission must insist on compliance with these additional service obligations, or in the alternative, IntelPeer must follow the waiver process prescribed under both the state statutes and in the Commission’s rules. This waiver process requires a finding by the Commission that the waiver would not

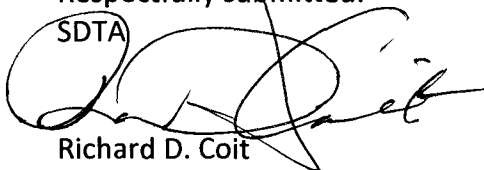
“adversely impact universal service, that quality of services would be continued, and that it would otherwise be in the public interest.” SDCL § 49-31-73. Under § 20:10:32:18 of the Commission’s administrative rules, IntelPeer as the applicant company, has the burden to prove that granting it a waiver of the ETC service obligations would be consistent with these standards. Engaging in a proper review of IntelPeer’s Application under these rural safeguard provisions found in both the federal and state law is especially important in this case because IntelPeer has indicated in its Application that its provisioning of local exchange services will be focused on “business and enterprise customers.”

7. Based on all of the foregoing, SDTA alleges that it is an interested party in this matter and would seek intervening party status in this Docket.

Dated this 28<sup>th</sup> day of January, 2010.

Respectfully submitted:

SDTA

A handwritten signature in black ink, appearing to read "Richard D. Coit", is written over the typed name and title. The signature is fluid and cursive.

Richard D. Coit

Executive Director and General Counsel

CERTIFICATE OF SERVICE

I hereby certify that an original of the Petition to Intervention, dated January 28<sup>th</sup>, 2010, filed in PUC Docket TC10-001 was served upon the PUC electronically, directed to the attention of:

Ms. Patty Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, SD 57501

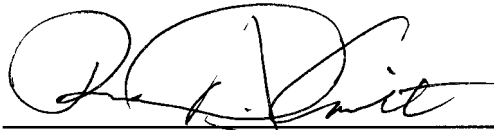
A copy was also sent by e-mail and US Postal Service First Class mail to each of the following individuals:

Ronald W. Del Sesto, Jr.  
Nguyen T. Vu  
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2020 K Street, NW  
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Dated this 28<sup>th</sup> day of January, 2010



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