

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

In the Matter of the Filing by MCImetro Access)	
Transmission Services LLC d/b/a Verizon Access)	TC11-093
Transmission Services for Approval of its Access)	
Services Tariff No. 2)	

MCImetro Access Transmission Services LLC d/b/a Verizon Access Transmission Services (“Verizon Access”) hereby responds to the Commission questions forwarded by Staff Counsel on January 4, 2012 regarding Verizon Access’ December 9, 2011 proposed revisions to its South Dakota Access Service Tariff No. 2. As noted in the cover letter accompanying the proposed tariff revisions, those revisions “reflect Verizon Access’ implementation of the intercarrier compensation regime for certain VoIP-PSTN traffic that was recently mandated (absent agreement by the affected companies) by the Federal Communications Commission (“FCC”) in its November 18, 2011 Report and Order and Further Notice of Proposed Rulemaking in WC Dockets 10-90, etc.” (hereinafter “FCC Order”).

As Verizon Access understands it, the Commission’s questions pertaining to Section 2.3.3.4.1.2. of the tariff are: How will customers that have not implemented “Relevant VoIP-PSTN Traffic in accordance with the FCC Order” be handled? Assuming those customers will be handled differently, where does the FCC Order account for such different treatment?

Verizon Access’ tariff section 2.3.3.4.1.2 reflects the explicitly reciprocal nature of the FCC’s VoIP-PSTN intercarrier compensation regime and the FCC’s expectation that all carriers will implement that regime. As the FCC made clear in its order, one of its main objectives in establishing an intercarrier compensation regime applicable to VoIP-PSTN traffic was to prevent litigation and arbitrage, which the FCC and numerous commenters identified as a significant problem. *See, e.g.,* FCC Order at ¶¶ 937-939, 950-951 and associated footnotes. For this reason,

the FCC brought *all* VoIP-PSTN traffic within the Section 251(b)(5) reciprocal compensation framework, and *all* carriers must implement the FCC's VoIP-PSTN intercarrier compensation regime. *See, e.g.*, FCC Order at ¶¶ 933, 943, 948, 961, 968, 970-72. A unilateral re-rating of VoIP-PSTN traffic – where Verizon Access would give the other carrier the benefit of interstate rates, but the other carrier would keep charging Verizon intrastate access rates on VoIP-PSTN traffic – would not be reciprocal compensation, but instead the very kind of asymmetrical compensation the FCC's regime was intended to eliminate.

Moreover, Section 2.3.3.4.1.2 reflects the reality that, due to the nature of VoIP-PSTN traffic, full industry compliance with the FCC Order requires significant industry cooperation to identify VoIP-PSTN traffic. Consistent with the FCC Order (*see* ¶ 963), the Verizon Access tariff outlines a process through which Verizon Access and its customers will develop, share, verify and update Percent VoIP Usage ("PVU") factors in order to identify the VoIP-PSTN traffic subject to interstate rates under the FCC Order. The reciprocity provisions of Section 2.3.3.4.1.2 of the Verizon Access tariff recognize that cooperation and input of other carriers play a role in that process and that Verizon Access cannot fully implement all of the provisions of its VoIP-PSTN tariff without such mutual cooperation from its carrier customers.

For example, if a customer has not fully implemented the FCC Order and has not identified its own PVU factor to Verizon Access, Verizon Access cannot utilize the tariff provisions calling for a combination of the customer PVU factor with its own PVU. Instead, as described in the tariff, Verizon would only be able to utilize its own PVU factor in identifying traffic subject to interstate rates, which very well could result in a different result. Section 2.3.3.4.1.2 highlights the need for cooperation and reciprocity in these circumstances to trigger all aspects of the tariff and all listed methods of identifying and rating VoIP-PSTN traffic in

order to fully implement the FCC Order. It is intended to secure *equal* treatment for all carriers under the FCC Order, not create *different* treatment.

Based on Verizon Access' review of other carriers' VoIP-PSTN compensation tariff filings, it appears that most, if not all, intend to implement the FCC's compensation regime (although Verizon Access may differ with some carriers about particular implementation details). Section 2.3.3.4.1.2 may, therefore, never come into play.

Verizon Access appreciates the opportunity to respond to the Commission's questions.

Dated: January 13, 2012

MAY, ADAM, GERDES & THOMPSON LLP

BY:

A handwritten signature in black ink, appearing to read "Brett Koenecke", written over a horizontal line.

BRETT KOENECKE

Attorneys for MCI Communications Services, Inc.
d/b/a Verizon Business Services

503 S. Pierre Street

PO Box 160

Pierre, SD 57501

(605) 224-8803