

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

IN THE MATTER OF THE JOINT)	
APPLICATION OF ORBITCOM, INC.,)	
KNOLOGY OF THE PLAINS, INC. AND)	DOCKET NO. TC12-065
KNOLOGY OF THE BLACK HILLS, LLC)	
FOR A WIAVER OF ARSD §§20:10:29:10,)	
20:10:29:12 AND 20:10:29:16		

**PETITION FOR INTERVENTION BY AT&T COMMUNICATIONS OF
THE MIDWEST, INC.**

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.

1. The Application for Waiver (“Application”) filed by OrbitCom, Inc. (“OrbitCom”), Knology of the Plains, Inc. and Knology of the Black Hills, LLC (collectively, “Knology”) seeks a waiver or suspension of ARSD Sections 20:10:29:10, 20:20:29:12 and 20:10:29:16 which require that the intrastate per minute access charge be equal for both originating and terminating traffic. Midcontinent Communications (“Midcontinent”) has sought intervention status in order to join in the application for waiver.
2. AT&T is an interexchange telecommunications carrier (“IXC”) and competitive local exchange carrier (“CLEC”) authorized to do business in the state of South Dakota.
3. As an IXC, AT&T is required to pay intrastate access service fees to CLECs such as OrbitCom, Knology and Midcontinent. The amount paid by AT&T for switched access service is a significant cost component in its provision of interexchange services. As a CLEC, AT&T is compelled to comply with the Commission’s rules when applicable.
4. AT&T asks for intervention status to initially seek a determination by the commission if CLECs in South Dakota require the specific waivers being sought in this docket. The Commission, in 2011, under its general rule making authority in ARSD §20:10:27:02.01 required that CLECs charge intrastate switched access rates not to exceed the rate of the Regional Bell Operating Company (“RBOC”). By creating a default rule governing the rates of CLECs, CLECs were removed from the additional requirements of ARSD

§§20:10:27 to 20:10:29, inclusive, that exist for an incumbent local exchange carrier (“ILEC”). See, ARSD §20:10:27:02. This would not be the case if a CLEC were to seek rates higher than the RBOC, which no party in this docket has sought. Accordingly, as a threshold matter for consideration, the Commission should determine if a CLEC that meets the requirement of ARSD §20:10:27:02.01 is required to compute, assess or collect charges for switched access services as would an ILEC. AT&T does not oppose the grant of a waiver/suspension as requested to the extent it is required.

5. In the event the commission determines that a waiver of the requirements found in ARSD §20:10:29 et seq. is required for CLECs, AT&T in the alternative would ask it be granted a waiver for the reasons stated by OrbitCom, Knology and Midcontinent in their filings.
6. AT&T has a direct interest in the outcome of this proceeding which may directly or indirectly affect the cost of telecommunications services that it provides to its long distance customers in South Dakota. Consequently, pursuant to ARSD 20:10:01:15:05, it qualifies for intervention as its interest is distinguishable from an interest common to the public or taxpayers in general. Further, AT&T is a similarly situated CLEC to the other parties in the docket and the alternative relief requested is the same as requested by Midcontinent.

WHEREFORE, AT&T requests that it be granted intervention status in this proceeding so that the commission can consider the threshold matter of whether or not CLECs meeting the ARSD §20:10:27:02.01 rate are subject as ILECs to rules found in ARSD §§20:10:27 to §20:10:29, inclusive. If CLECs are found to be so subject, AT&T would request a waiver of the requirement in ARSD §§20:10:29:10, 12 and 16.

Dated this 13rd day of June, 2012

Olinger, Lovald, McCahren & Reimers, P.C.

/s/William M. Van Camp

William M. Van Camp

Attorney at Law

PO Box 66-117 E Capitol

Pierre SD 57501

*Attorneys for AT&T Communications of
the Midwest, Inc.*

CERTIFICATE OF SERVICE

On this 13th day of June, 2012, a true and correct copy of the foregoing was mailed electronically to:

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
patty.vangerpen@state.sd.us
(605) 773-3201 - voice
(866) 757-6031 - fax

Ms. Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
karen.cremer@state.sd.us
(605) 773-3201 – voice
(866) 757-6031 - fax

Mr. Dave Jacobsen
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501
david.jacobsen@state.sd.us
(605) 773-3201- voice
(866) 757-6031 – fax

Ms. Kathy Ford
Attorney at Law
PO Box 1030
Sioux Falls, SD 57101-1030
kford@dehs.com

Ms Meredith Moore
Attorney at Law
100 N Phillips Ave., 9th Floor
Sioux Falls, SD 57104-6725
meredithm@cutlerlawfirm.com

/s/William M. Van Camp