ATTACHMENT B

Long Lines Metro, LLC

Application for Waiver

Certain Requirements of ARSD 20:10:29:10, 20:10:29:12, and 20:10:29:16

BEFORE THE PUBLIC UTILITES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILING OF LONG LINES METRO, LLC FOR WAIVER OF SWITCHED ACCESS RULES PERTAINING TO APPROVAL OF ITS SWITCHED ACCESS TARIFF	DOCKET NO. TC 12-108 APPLICATION FOR WAIVER OF CERTAIN REQUIREMENTS OF ARSD 20:10:29:10, 20:10:29:12 AND 20:10:29:16

Pursuant to ARSD 20:10:27:02, Long Lines Metro, LLC ("Long Lines") hereby respectfully submits this petition for waiver to the South Dakota Public Utilities Commission ("Commission") for certain requirements contained in ARSD §§ 20:10:29:10, 20:10:29:12, and 20:10:29:16 which govern the establishment of intrastate switched access rate elements. Specifically, Long Lines respectfully requests a waiver regarding equal tariff rates for originating and terminating traffic from the provisions set in each of the above rules.

Background

1. Long Lines (f/k/a CommChoice) is a competitive local exchange carrier ("CLEC") in the State of South Dakota. Long Lines received its Certificate of Authority to provide telecommunications services including local exchange, intraLATA services, and interLATA services through a combination of reseller and facilities-based provisioning in TC97-035 on June 10, 1997.
2. Long Lines provides intrastate switched access services for both originating and terminating usage and has an approved tariff on file with the Commission. As a CLEC Long Lines is subject to ARSD § 20:10:27:02:01, and mirrors the

benchmark rates of Qwest Corporation d/b/a CenturyLink ("CenturyLink") since Long Lines offers service in CenturyLink's service territories.

3. This request is made in response to the Federal Communications Commission's ("FCC") Report and Order and Further Notice of Proposed Rulemaking[1] ("Order"), released on November 18, 2011, which addresses universal service and intercarrier compensation reform.

4. The FCC adopted a bill-and-keep methodology in the Order for intercarrier compensation in order to phase out regulated per-minute charges.[2] Although, this bill-and-keep methodology is set as the "end state for all traffic"[3], the FCC emphasized it will be a gradual transition and initially focused on bill-and-keep for terminating access rates.[4] The Order did not identify any originating switched access rate transitional path, but instead leaves that portion to further notice.

5. This transitional time period began July 1, 2012 (later clarified to begin July 3, 2012 in DA 12-482 released on March 28, 2012) and will continue for six years for carriers that operate as "price-cap" carriers and nine years for carriers that operate as "rate-of-return" carriers, which includes CLECs that benchmark at the applicable type of carrier.[5] Being a CLEC, Long Lines follows §51.911 for the rate step down process.

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[1] *Connect America Fund,* WC Docket No. 10-90, *A National Broadband Plan for our Future,* GN Docket No. 09-51, *Establishing Just and Reasonable Rates for Local Exchange Carriers,* WC Docket no. 05-337, *Developing an Unified Intercarrier Compensation Regime,* CC Docket No. 01-92, *Federal –State Joint Board on Universal Service,* CC Docket No. 96-45, Lifeline and Link-Up, WC Docket No. 03-109, *Universal Service – Mobility Fund,* WT Docket No. 10-208, Report and Order and Further Notice of Proposed Rulemaking, FCC 11-161 (rel. November 18, 2011).
[2] Id. at ¶ 736.
[3] Id. at ¶ 736.
[4] Id at ¶ 739.
[5] Id at ¶ 801.

6. The first step of the access rate reduction began on July 1, 2012 taking the intrastate terminating switched access end office and transport rates to a half way point of the interstate terminating switched access rates. The methodology utilized is explained in 47 CFR 51.911(b).
7. The FCC acknowledged the significant financial impact of the terminating access revenues lost by local exchange carriers as well as their eligible recovery while transitioning to a bill-and-keep methodology and established a "transitional" recovery mechanism referred to as "Connect America Fund" ("CAF"). However, CLECs are not eligible for CAF support in order to replace reductions in ICC revenues[6].
8. On July 2, 2012, Long Lines submitted a replacement intrastate switched access tariff, Tariff No. 3, with the Commission as Docket No. TC 12-108. This filing is in compliance with the FCC Order regarding transitional terminating switched access rates.

Good Cause

1. Within the rules a waiver is being requested, ARSD §§ 20:10:29:10, 20:10:29:12, and 20:10:29:16, it states, "The per minute charge is equal for both originating and terminating traffic." Based upon the FCC Order, in itself, provides "good cause" for granting the requested waiver for this portion of the rule and leaving the remaining portions of the administrative rules in full force.
2. With additional changes coming over the next few years for terminating switched access rates and the originating portion still undetermined, there are many uncertainties at this time. The FCC Order and the current state of Intercarrier

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[6] **Id at ¶ 853.**

reform require a Commission order to waive the identical treatment of originating and terminating switched access rates as currently set forth in the referenced administrative rules.

3. The Commission granted similar requests in TC 12-027, TC 12-076 and TC 12-065 for other South Dakota CLECs that operate under the same requirements as Long Lines.

Conclusion

Long Lines respectfully submits that good cause exists as provided herein to justify the grant of an immediate waiver of the equal rate element requirements contained within administrative rules, ARSD §§ 20:10:29:10, 20:10:29:12, and 20:10:29:16, as necessary to allow its South Dakota rate amendments to be in compliance with the FCC Order.

Respectfully submitted this 5th day of October, 2012.

Long Lines Metro, LLC

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