

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

IN THE MATTER OF THE FILING BY
NEUTRAL TANDEM - SOUTH
DAKOTA, LLC FOR APPROVAL OF
REVISIONS TO ITS TARIFF NO. 1

**TC12-111
APPLICATION FOR WAIVER
OF CERTAIN REQUIREMENTS
OF A.R.S.D. §§20:10:29:10, 20:10:29:12
AND 20:10:29:16**

Neutral Tandem - South Dakota, LLC (“Neutral Tandem”), hereby requests waiver of ARSD §§20:10:29:10, 20:10:29:12, and 20:10:29:16 to allow its South Dakota rate amendments to go into effect. In support of its request, Neutral Tandem states as follows. On July 10, 2012, Neutral Tandem submitted switched terminating access reductions in Docket No. TC 12-111 in compliance with the Federal Communications Commission’s (“FCC”) USF/ICC Transformational Order, as amended.¹ Pursuant to the USF/ICC Transformation Order facilities-based local exchange carriers were directed to make terminating access rate reductions on a transitional basis. The USF/ICC Transformational Order did not mandate access reductions for originating access.

Rules ARSD §§20:10:29:10, 20:10:29:12, and 20:10:29:16 *inter alia* require that local exchange carriers should tariff equal rates for originating and terminating traffic. A waiver of these rules is necessary to allow Neutral Tandem to comply with the USF/ICC Transformation Order without a further reduction of revenues exceeding those dictated by the FCC. The FCC is undertaking a further investigation of originating access charges and any additional reductions to originating access should take into account the FCC’s finding when that investigation is complete.

This Commission has granted similar requests such as the request contained in Commission Docket TC 12-027, which request for waiver or suspension was filed by the South Dakota Telecommunications Association (“SDTA”), the Local Exchange Carriers Association (“LECA”) and Qwest Corporation d/b/a CenturyLink QC (“CenturyLink”).² In that docket, the Commission agreed that a waiver of certain language within A.R.S.D. §§ 20:10:29:10, 20:10:29:12 and 20:10:29:16 was appropriate until such further time as the Commission took action.

¹ *Report and Order and Further Notice of Proposed Rulemaking*, in Docket Nos. WC Docket No. 10-90, *et al.*, FCC 11-161 (the “USF/ICC Transformational Order”).

² See Order dated May 1, 2012.

Wherefore, Neutral Tandem - South Dakota, LLC (“Neutral Tandem”), respectfully requests waiver of ARSD §§20:10:29:10, 20:10:29:12, and 20:10:29:16 in this specific instance to allow its South Dakota rate amendments in compliance with the FCC’s USF/ICC Transformational Order to go into effect.

Respectfully submitted this 11th day of February, 2013,

For Neutral Tandem - South Dakota, LLC

By:



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