STAFF MEMORANDUM

TO: COMMISSIONERS AND ADVISORS

FROM: KRISTEN EDWARDS AND PATRICK STEFFENSEN

RE: TC12-182 – In the Matter of the Application of Interstate Telecommunications Cooperative, Inc. for an Amended Certificate of Authority

DATE: November 14, 2012

Commission Staff (Staff) submits this Memorandum in analysis of the Amended Certificate of Authority (COA) application made by Interstate Telecommunications Cooperative, Inc. (ITC).

BACKGROUND

This filing is made in preparation of the company reorganization to occur on January 1, 2013. SSTELECOM, Inc. (SSTI) will merge with and into Stockholm-Strandburg Telephone Co. (Stockholm), and then Stockholm will merge with and into ITC. While mergers do not require Commission approval pursuant to SDCL 49-31-59, there are still a number of issues to consider in this docket.

1. **Can one telephone company perform business as both an incumbent local exchange carrier (ILEC) and competitive local exchange carrier (CLEC)?**

   This scenario has yet to occur in the state of South Dakota; however, research indicates some neighboring state Commissions have approved similar arrangements. (i.e., Paul Bunyan Communications, Minnesota Public Utilities Commission) Furthermore, SDCL 49-31-4 speaks to the fact "no telecommunications company may use revenues from emerging competitive services to subsidize fully competitive services or revenues from noncompetitive services to subsidize emerging competitive services or fully competitive services" implying companies can operate in both arenas.

2. **Has ITC sufficiently planned for a separation of operations, and are they cognizant of these rules against cross subsidization?**

   ITC's responses to data request two show they have performed their due diligence and are planning for multiple levels of separation. They indicate they presently track separate costs amongst each study area and intend to do so after the merger. This separation starts with separating accounting ledgers between ILEC and CLEC operations and extends to maintaining separate COAs and tariffs.

3. **Does ITC need a separate COA and tariff for its ILEC and CLEC operation?**

   Although staff could not find any reason one dual purpose COA and tariff for the entire ILEC and CLEC operation could not be used, ITC and staff felt it would be best to separate these out. Thus, ITC is requesting two amendments in this docket: 1) to amend the ITC COA to permit it to offer local exchange service in the Stockholm service area, and 2) to amend the SSTI COA to permit the surviving corporation, ITC, to operate as the competitive local exchange carrier. ITC will provide amended tariffs upon completion of the merger.

4. **Does ITC need to amend the interexchange COA presently held by SSTI?**

   Since ITC and all ILECs have interexchange authority pursuant to SDCL 49-31-3, there is no need to amend SSTI's interexchange COA.

5. **Does ITC intend/need to keep the $25,000 surety bond required of SSTI when their COA was approved in docket TC05-223?**

   Although it is staff procedure in reviewing CLEC COAs to require a surety bond in lieu of prepayments restrictions, we are aware that: 1) other ILECs are not required to maintain a $25,000 bond, 2) ITC shows a long history of strong financial performance, and 3) there is a lesser degree of consumer risk associated with being a member of a telephone cooperative.

STAFF RECOMMENDATION

Staff recommends that the Commission do the following:

1) Grant waiver of A.R.S.D. 20:10:32:03: (6), (7), (8)(c), (10), (13), (14), (15), (18), (19), (20), and (22), as ITC, Stockholm, and SSTI have previously submitted the information required with these provisions, and

2) Approve the ITC and SSTI amended COAs with a January 1, 2013 effective date and contingent on completion of the merger, and

3) Waive the SSTI surety bond requirement established in docket TC05-223.