

April 3, 2013

Ms. Patty Van Gerpen, Executive Director
South Dakota Public Utilities Commission
500 East Capitol Ave.
State Capitol Building
Pierre, SD 57501

RE: Docket TC13-026, In the Matter of Study Area Boundaries for Incumbent Local Exchange Carriers

Dear Ms. Van Gerpen:

The South Dakota Telecommunications Association (“SDTA”) submits this letter to provide written comment in response to the Commission’s “Order Opening Docket; Order Setting Comment Deadline” issued in the above referenced matter on March 27th. As mentioned in that Order, SDTA provided comments at the Commission meeting on March 26th, expressing its preference that this Commission submit and certify incumbent local exchange carriers (ILEC) study area and exchange area boundary data to the FCC. The purpose of this letter is to supplement our earlier comments and to also more specifically address the issue noted in the Commission’s Order related to study area boundaries that cross state lines.

The FCC with an Order on Reconsideration released on February 26th (DA13-282) and a Public Notice released on March 18th (DA 13-456) is now encouraging state commissions to submit data on the study area boundaries of the ILECs operating in their respective states. As SDTA has emphasized and as this Commission knows, the study area boundary data that the FCC is now collecting will be critical to federal high cost funding determinations in several respects. The boundary information will be used as baseline geographic data in the FCC’s “Quantile Regression Analysis” (“QRE”) model used in developing capital and operational expense caps for the purpose of determining rate-of-return carrier federal high cost funding distributions. The information will also be used by the FCC in examining whether “unsubsidized competition” exists within a “study area” and whether that should disqualify the serving ILEC from receiving federal high cost funding for such area.

Given the significance of accurate study area boundary data to all ILECs in South Dakota and given that this Commission possesses the requisite authority under state law to define the service area or territorial boundaries of ILEC operations within the State, SDTA strongly believes that the best course of action is for this Commission to certify and submit study area and exchange boundary data in accord with the FCC's established data submission specifications.

Through its establishment of and continued oversight over the service area or territorial boundaries of ILECs, this Commission has historically and effectively set the "study area" boundaries of carriers providing regulated local exchange services anywhere within South Dakota. The Commission's authority to establish service area boundaries and resolve disputes between carriers relative to these boundaries has been clearly established and continues to exist under the current codified South Dakota laws. While it may not be expressly stated, such authority is clearly implied by various provisions found in SDCL Chapter 49-31, including the following: SDCL §§ 49-31-2, 49-31-3, 49-31-3.1, 49-31-7, 49-31-7.1(2), 49-31-59, 49-31-69, 49-31-73, 49-31-70, and 49-31-78.

SDTA believes that a decision by this Commission to certify and submit ILEC study area boundaries and exchange area boundaries to the FCC is important, over the long term, to avoid possible future claims of federal preemption and preserve essential state regulatory state authority. In addition, involvement by this Commission in the process makes good sense from a South Dakota carrier and consumer perspective. As indicated by SDTA at the meeting on March 26th, this Commission is unquestionably better suited to make the necessary boundary determinations. It has the local presence, information and knowledge necessary to appropriately review the individual carrier shapefile submittals and to accurately define and resolve ILEC boundary differences. The entire boundary certification process will be more efficient and less costly to the involved incumbent carriers if the reconciliation of boundary differences between carriers occurs at the state level, rather than at the FCC.

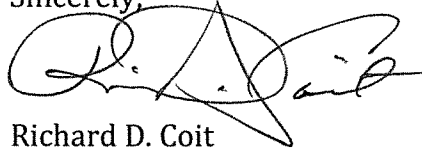
Assuming this Commission moves forward with certifying and presenting to the FCC the required ILEC boundaries, SDTA will work toward collectively filing all SDTA member company study area shapefiles. Further, pursuant to the FCC's "Order on Reconsideration" (DA 13-282), par. 7, SDTA will work with its member companies to assist them in preparing and reconciling the boundary data to be filed between not only SDTA members, but also with other ILECs operating in the State.

In regards to those study areas crossing state lines, SDTA would urge the Commission to require shapefile submittals by all incumbent ILECs with operations in the State (showing accurately at least those portions of their study area boundaries located within South Dakota). This is essential in order to resolve all possible differences that may exist

between such carriers regarding study area boundaries that extend into this State. Obviously, a number of study areas located entirely in South Dakota lay adjacent to other study areas that extend only partially into the State. Review and certification of the boundaries of even those study areas located entirely within this State cannot occur without a corresponding review and certification of all adjacent ILEC boundaries, including at least the in-state boundaries of study areas crossing state borders. As to any related state jurisdictional concerns, SDTA believes that this Commission can adequately address any such concerns by clearly indicating that its review and certification of any submitted shapefiles only covers those study area and exchange area boundaries resting within the geographical confines of South Dakota.

In closing, SDTA and its member companies again thank the Commission for promptly addressing this matter and for the opportunity to provide input.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Coit", written over a large, faint circular stamp or watermark.

Richard D. Coit

SDTA Executive Director and General Counsel