

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

**IN THE MATTER OF THE APPLICATION OF)
CLARITY TELECOM, LLC d/b/a VAST BROADBAND)
FOR AN AMENDED CERTIFICATE OF AUTHORITY) Docket No. TC16-009
TO PROVIDE LOCAL EXCHANGE)
TELECOMMUNICATIONS SERVICES IN THE)
BROOKINGS RURAL SERVICE AREA)**

SDTA Petition to Intervene

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. On or about June 20, 2016, Clarity Telecom, LLC d/b/a Vast Broadband (hereinafter referenced as "Clarity") filed an Application with the Commission seeking an amendment of its current Certificate of Authority (as a competitive local exchange carrier operating in South Dakota) to provide local exchange service "in the Brookings, South Dakota service area."

2. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota. Brookings Municipal Telephone d/b/a Swiftel Communications (hereinafter referenced as "Swiftel") operates as a municipal "incumbent local exchange carrier" and "rural telephone company" under both federal and state law and is currently a member of SDTA.

3. SDTA has a number of concerns related to the Application filed by Clarity. First, the Application as filed is deficient because it fails to provide all of the information required by the Commission's administrative rules. In particular, the application fails to provide sufficient information regarding the specific local exchange services that Clarity will make available, where within the "Brookings service territory" it will actually offer and provide such services, and which class or classes of customers it intends to serve within the Brookings area. In addition, and most importantly, there is nothing in the Application explaining how and when Clarity would actually meet the additional service obligations imposed on local service providers in rural service areas pursuant to SDCL § 49-31-73 and ARSD §§ 20:10:32:15 thru 20:10:32:17. Before granting Clarity an amended certificate of authority that would authorize it to extend its local exchange telecommunications services into the rural service area of Swiftel or any other rural telephone company, the Commission must require Clarity to comply with these additional service obligations, or in the alternative, Clarity must follow the waiver process prescribed under both the state statutes and in the Commission's rules.

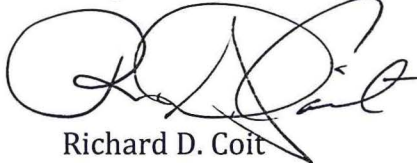
4. In its Application, Clarity indicates that it is "currently formulating its business plans for the Brookings service territory," and, with respect to the additional rural service area obligations, Clarity merely relies on a past decision of this Commission granting it eligible telecommunications carrier ("ETC") status for certain *non-rural* telephone company service areas within the State. Clarity's sole reliance upon statements made in its Application for ETC designation in other non-rural service areas is not sufficient. Additional information is needed to demonstrate specifically how Clarity will in fact be positioned to provide its services in Swiftel's service area on more than a limited, selective basis.

5. SDTA is particularly concerned that this Commission, in its review of Clarity's Application, ensures full compliance with state statutes and administrative rules governing the authorization of competitive local exchange carriers, including the above referenced rural safeguard provisions, given the FCC's recent "Rate of Return USF Reform Order" released on June 15, 2016.¹ As this Commission is aware, that Order significantly changes the High Cost Support Mechanism within the federal Universal Service Fund and as a result, matters related to the availability or non-availability of competitive carrier service offerings within rural telephone company service areas are now of even greater importance going forward (for purposes related to incumbent LEC universal service funding distributions).

6. Based on all of the foregoing, SDTA alleges that it is an interested party in this matter and would seek intervening party status in this Docket. SDTA seeks intervention in this proceeding based on the interests of Swiftel and also the interests of other SDTA member companies that operate as incumbent local exchange carriers and rural telephone companies and that may be "bound and affected favorably or adversely" by decisions made in this proceeding. (See ARSD § 20:10:01:15.05).

Dated this 8th day of July, 2016.

Respectfully submitted:



Richard D. Coit
Executive Director and General Counsel

¹ *Connect America Fund et al.*, WC Docket No. 10-90 et al., Report and Order and Order on Reconsideration and Further Notice of Proposed Rulemaking, 31 FCC Rcd 3087 (2016).