

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

**IN THE MATTER OF THE FILING BY SANCOM,)
INC. D/B/A MITCHELL TELECOM FOR)
APPROVAL OF ITS INTRASTATE SWITCHED)
ACCESS TARIFF AND FOR AN EXTENTION)
OF AN EXEMPTION FROM DEVELOPING)
COMPANY SPECIFIC COST-BASED)
SWITCHED ACCESS RATES)**

**ORDER DENYING IN PART
MOTION TO QUASH**

TC07-128

On December 29, 2004, the South Dakota Public Utilities Commission (Commission) issued an order granting Sancom, Inc. d/b/a Mitchell Telecom (Sancom) a three year exemption from developing company specific cost-based intrastate switched access rates in accordance with ARSD 20:10:27:11. On December 28, 2007, Sancom filed a petition asking for an extension of that exemption. Additionally, Sancom is requesting to reduce its intrastate switched access rates to \$0.115 per originating and terminating MOU, a decrease of \$0.0075 from its current rates. On February 3, 2008, the Commission issued its Order Granting Intervention to Qwest Communications Corporation (Qwest) and AT&T Communications of the Midwest, Inc. (AT&T). On June 17, 2008, Sancom filed a Motion to Quash Subpoenas, Interrogatories and Data Requests. On June 25, 2008, Qwest filed a Response to Sancom's Motion to Quash and Affidavit of Chris Madsen in Response to Sancom's Motion to Quash. On July 1, 2008, Qwest filed a Supplement to Reply and Motion to Take Judicial Notice. On July 21, 2008, Sancom and Staff jointly filed a Joint Motion for Approval of Settlement Stipulation and Settlement Stipulation. On July 25, 2008, Staff filed a Commission Staff Memorandum in Support of Settlement Stipulation.

The Commission has jurisdiction in this matter pursuant to SDCL Chapter 1-26, particularly 1-26-19.2 and 1-26-20, SDCL Chapter 15-6, particularly 15-6-26(c), and SDCL Chapter 49-31, particularly 49-31-19, 49-31-12 and 49-31-12.4, ARSD Chapter 20:10:01, including 20:10:01:01.02, 20:10:01:17, 20:10:01:17.1, 20:10:01:19, 20:10:01:22.01 and 20:10:01:39 through 20:10:01:43, inclusive, and ARSD Chapters 20:10:27 through 20:10:29, inclusive, including 20:10:27:02, 20:10:27:07, 20:10:27:11 through 20:10:27:13, inclusive.

At its regularly scheduled meeting on July 29, 2008, the Commission considered Sancom's Motion to Quash Subpoenas, Interrogatories and Data Requests and deferred taking action on the Motion. At its regularly scheduled meeting on August 12, 2008, the Commission again considered Sancom's Motion to Quash. After hearing from the parties, the Commission voted unanimously to deny in part Sancom's Motion to Quash with respect to Qwest's Subpoena requesting production of Sancom's responses to Staff's Data Requests except for Sancom's responses to DR 1-23, 1-28 and 3-3. The Commission deferred action on the Motion to Quash with respect to Qwest's Interrogatories and Sancom's responses to Staff's Data Requests DR 1-23, 1-28 and 3-3. The Commission further required Sancom and/or Staff to produce to Qwest Sancom's responses to Staff's Data Requests, except for DR 1-23, 1-28 and 3-3, subject to a Protective Order that would preclude disclosure or use of the produced materials for any purpose other than this proceeding, including use in any other proceeding, other than any legal proceeding arising directly out of this proceeding, except pursuant to discovery in such other legal proceeding or an applicable order of the court or tribunal in such other proceeding.

It is therefore

ORDERED, that Sancom's Motion to Quash is denied with respect to Qwest's Subpoena requesting production of Sancom's responses to Staff's Data Requests except for Sancom's responses to DR 1-23, 1-28 and 3-3; and it is

FURTHER ORDERED, that action on the Motion to Quash with respect to Qwest's Interrogatories and Sancom's responses to Staff's Data Requests DR 1-23, 1-28 and 3-3 is deferred; and it is

FURTHER ORDERED, that Sancom and/or Staff shall produce to Qwest Sancom's responses to Staff's Data Requests, except for DR 1-23, 1-28 and 3-3, subject to the Protective Order entered on this date by the Commission.

Dated at Pierre, South Dakota, this 22nd day of August, 2008.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.
By: <u>Steve Kolbeck</u>
Date: <u>8/22/08</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Steve Kolbeck
STEVE KOLBECK, Commissioner

Dustin M. Johnson
DUSTIN M. JOHNSON, Commissioner
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