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INITIAL COMMENTS OF THE SOUTH DAKOTA
INDEPENDENT TELEPHONE COALITION ("SDITC")
ON PROPOSED ADMINISTRATIVE RULES

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

SDITC, on behalf of its member local exchange companies, submits the following comments in response to the Commission's Notice released on or about October 7th, 1998, which proposes (1) amendments to various administrative rules found in ARSD Chapters 20:10:01, 20:10:24, 20:10:28, and 20:10:29; (2) the repeal of ARSD Chapter 20:10:25; and (3) new administrative rules consisting of ARSD Chapters 20:10:32, 20:10:33 and 20:10:34.

I. Revisions to ARSD Chapter 20:10:01, General Rules of Practice.

SDITC has no comments concerning the rule revisions proposed for ARSD Chapter 20:10:01 which clarify and update some of the Commission's procedural rules.

II. Revisions to ARSD Chapter 20:10:24, Interexchange Carrier and Classification Rules.

ARSD § 20:10:24:01. Definitions.

A revision is proposed to subsection (9) that would remove the word "adjacent" from the existing "extended area service" definition.

Even though there may be cases where non-adjacent or non-contiguous local exchange areas share a "community of interest" and where, consequently, extended area service may be viewed as desirable, SDITC believes that specified criteria should be applied in determining whether the "community of interest" standard is met and that this criteria should include a geographic element. The respective geographic location of the local exchange areas subject to any EAS petition is an important consideration in determining whether a "community of interest" actually exists between the exchanges.

If the Commission does revise ARSD § 20:10:24:01(9) as proposed, SDITC asks the Commission to clarify whether, despite the change, it will continue in the future to consider whether or not EAS petitioning exchanges are "adjacent" or "contiguous" in reviewing EAS petitions.

SDITC believes the Commission must in its EAS review process at least consider whether or not the exchanges involved are "adjacent". If the new EAS definition is adopted, we

would urge the Commission, in any event, to retain an "adjacent" exchange requirement as the general rule for EAS petitions and to only permit EAS petitions between non-contiguous exchanges as an exception, where other substantial evidence exists indicating a "community of interest" between the exchanges.

ARSD §20:10:24:03.01 Decision criteria for granting a certificate of authority.

With regard to the criteria proposed for reviewing applications for interexchange service authority, SDITC recommends that the reference to "service obligations" be stricken from subsection (3) as follows:

"The applicant's personnel, staffing, equipment, and procedures, including the extent to which these are adequate to ensure compliance with the commission's rules and orders relating to ~~service obligations~~, service quality, customer service and other relevant areas."

The reference to "service obligations" is only necessary relative to the review of local exchange service applications. Neither the state statutes nor subsequent rules proposed in ARSD Chapter 20:10:32 impose any specific service obligations on providers of interexchange services. The "service obligations" imposed by state statute pursuant to SDCL § 49-31-73 and as set forth in the proposed rules, §§ 20:10:32:07, 20:10:32:10, 20:10:32:11, 20:10:32:16, 20:10:32:17 and 20:10:32:43, relate only to local exchange service providers.

In addition, SDITC proposes a deletion of the language found in subsections (4) and (5) of ARSD § 20:10:24:03.01. These provisions seem unnecessary in the review of applications for interexchange service.

III. ARSD Chapter 20:10:25, Telecommunications Facility Construction Notice Rules.

SDITC agrees that this chapter should be repealed in its entirety given the repeal of SDCL § 49-31-21.

IV. ARSD Chapter 20:10:28, Telecommunications Separations Procedures.

ARSD § 20:10:28:105. Telephone operator services – Included expenses – Apportionment of expenses.

SDITC does not support the proposed revision to § 20:10:28:105 and believes the rule should remain as it is currently in effect. As revised, the rule is inconsistent with the FCC's Order in CC Docket No. 96-128, In the Matter of Implementation of the Pay Telephone and Reclassification and Compensation Provisions of the Telecommunications Act of 1996, FCC 96-388, released September 20, 1996. In that Order, par. 159, the FCC specifically indicated that it did "not include as payphone assets to be reclassified or transferred the loops connecting the payphones to the network, the central office 'coin-service,' or operator service facilities supporting incumbent LEC payphones because these are part of the network equipment necessary to support basic telephone services." *Emphasis added.*

The FCC has made it clear that incumbent LECs are only required to remove the cost of payphone sets from their regulated intrastate and interstate rate structures and that this does not include the costs of network equipment or facilities. The same rationale for the FCC's refusal to reassign the costs of the loop facilities connecting payphones to the network or the costs of operator service facilities applies to the reassignment of operating expenses including telephone operator service expenses.

The FCC orders do not require any reassignment of the operator service expenses described in ARSD § 20:10:28:105. The related expenses are not expenses directly attributable to operating or maintaining pay telephone equipment. Rather, they are expenses associated with providing a particular telecommunications service to payphone stations. As such, they are not affected by the FCC's payphone orders.

This is confirmed by the fact that the corresponding FCC Part 36 rule, 47 C.F.R. § 36.374, has not been changed as a result of the payphone orders. In its current form, the FCC rule reads as follows:

Telephone operator expenses.

(a) *Expenses in this classification include costs incurred for operators in call completion service and number services. This includes intercept, quoting rates, directory information, time charges, and all other operator functions performed in the central office, private branch exchange, teletypewriter exchange, and at public telephone stations.*

(b) *Expenses in this classification are apportioned among the operations on the basis of the relative number of weighted*

standard work seconds as determined by the analysis and study for a representative period.

Emphasis added.

ARSD § 20:10:28:117. Message processing – Included expenses – Subcategories – Assignment of subcategories.

For the same reasons, SDITC also does not support any change to this section. Expenses associated with message processing relate to a service that is provided over the telephone network to all telephone locations. They are not expenses attributable to operating or maintaining pay telephone equipment.

The corresponding FCC Part 36 rule, 47 C.F.R. § 36.379, was not changed as a result of the payphone orders and, likewise, no change should be made to ARSD § 20:10:28:117. The FCC rule makes no reference to the exclusion of pay telephone expenses. It provides:

Message processing expense.

(a) This classification includes the salary and machine expense of data processing equipment, including supervision, general accounting, administrative and miscellaneous expense associated with the processing of individual toll tickets and local message tickets.

(b) The expense assigned to this classification is divided into the subcategories Toll Ticket Processing Expense and Local Message Processing Expense on the basis of the relative number of messages. Toll Ticket Processing Expense is allocated between the state and interstate jurisdiction on the basis of the relative number of toll messages. Local Message Processing Expense is assigned to the exchange operation.

ARSD § 20:10:28:118. Other billing and collecting – Included expenses – Segregation into services – Assignment of service expenses.

Regarding the proposed revisions to ARSD § 20:10:28:118, SDITC does not believe the section should reference any exclusion of "expenses associated with pay telephone services." For the same reasons noted above in addressing operator services expense and message processing expense, the FCC has not included any similar reference to pay telephone expenses in its separations rules addressing other billing and collection expenses, 47 C.F.R. § 36.380. The

assignment of other billing and collection expenses, as evidenced by the pertinent FCC rule, was also not affected by the FCC's payphone orders.

SDITC, however, proposes that other revisions be made to ARSD § 20:10:28:118 to simplify the process used in assigning other billing and collection expense between classes of service.

The FCC has recently revised its rule addressing the assignment of other billing and collection expenses to clarify that the assignment should be made based on a flat percentage. The FCC has indicated specifically in 47 C.F.R. § 36.380 that other billing and collection expenses, as described therein, should be separated between the interstate and intrastate jurisdictions based on flat percentages (1/3rd interstate and 2/3rd intrastate).

SDITC urges the Commission to adopt a like approach in separating the other billing and collection expenses described in ARSD § 20:10:28:118. Presently, the rule separates such expenses between "toll services" and "other services" based on the relative number of message toll users and exchange users. SDITC asks the Commission to consider changing the rule to establish a flat 50/50 assignment of the intrastate other billing and collection expenses between toll services and other services. Adopting such a method should have little effect on the actual billing and collection amounts allocated between toll and other services. As noted, currently, other billing and collection expenses are assigned between toll and other services based on the relative number of toll and exchange users. Because almost all customers receiving local exchange services would also be counted as toll users, effectively a 50/50 split is used today in assigning the expenses. Revising ARSD § 20:10:28:118 to establish an allocation based directly on a 50/50 split of the intrastate other billing and collection expense would have little, if any, effect on the current amounts allocated, but would be much easier for the affected companies to administer.

SDITC proposes that ARSD § 20:10:28:118 be revised as follows:

20:10:28:118. Other billing and collecting – Included expenses – Segregation into services – Assignment of service expenses. Other billing and collecting includes the salary expense, including supervision, general accounting administrative, and miscellaneous expense, associated with the preparation of customer bills other than carrier access charge bills and with other revenue accounting functions not covered in § 20:10:28:117. Included in this classification are the expenses incurred in the preparation of monthly bills, initial and final bills, the application of service orders to billing records (establishing,

changing, or discontinuing customers' accounts), station statistical work, controlling record work, and the preparation of revenue reports.

~~The expenses assigned to this classification are segregated based on the relative number of users of message toll telephone and telegram services excluding semipublic where tolls are not itemized on the bill, exchange including semipublic, directory advertising, and private line services, as determined by analysis for a representative period. In determining the number of users, an individual customer is counted once for each class of service which it uses; for example, a majority of customers are counted both as message toll telephone and as exchange users. assigned as follows:~~

~~(1) fifty (50) percent of the expenses shall be assigned to toll services; and~~

~~(2) fifty (50) percent of the expenses shall be assigned to other services.~~

~~Service expenses are assigned as follows:~~

~~(1) Expense allocated to message toll telephone and telegram users is assigned to toll services;~~

~~(2) Expense allocated to exchange, including semipublic users, and to directory advertising users is assigned to other services;~~

~~(3) Expense allocated to private line services users is assigned to toll and other services based on use.~~

V. ARSD Chapter 20:10:32, Local Exchange Service Competition.

SDITC supports Commission adoption of the local service competition rules proposed. SDCL § 49-31-76 provides that the Commission shall "adopt rules addressing the competitive provisioning of local exchange service which, consistent with 47 U.S.C. § 253(b) as of January 1, 1998, shall be directed toward preserving and advancing universal service, protecting the public safety and welfare, ensuring the continued quality of service, and safeguarding the rights of affected customers." It further provides that in this process "the preservation and advancement of universal service shall be a primary concern."

SDITC believes that the new rules proposed in ARSD Chapter 20:10:32 are essential and are consistent with these statutory provisions.

VI. ARSD Chapter 20:10:33, Service Standards for Telecommunications Companies.

ARSD § 20:10:33:03. Level of service applicable to all subscribers within an exchange.

In general, with regard to ARSD § 20:10:33:03, SDITC supports what the rule is intended to accomplish. All of the SDITC member companies, as rural telephone companies, strongly support the requirement set forth in state law that all customers receive reasonably comparable service. The companies, likewise, support the requirement set forth in SDCL § 49-31-84 that reasonably comparable services should be brought to rural and high cost customers at reasonably comparable rates.

However, to accomplish what is intended by ARSD § 20:10:33:03 in the short term and over the long term, it is not enough to simply issue a rule which states that those customers served by subscriber carrier equipment and those served off normal loops shall have essentially equivalent service. To effectively ensure that all rural customers, regardless of their specific location, will continue at all times to have access to reasonably comparable services at reasonably comparable prices, the cost recovery issues associated with deploying state-of-the-art technology in the rural or high cost areas need to be addressed. SDITC firmly believes that, in a state such as ours, some cost averaging vehicle such as a State Universal Service Fund ("USF") will have to be established.

With regard to the specific language proposed in ARSD § 20:10:33:03, SDITC recommends that the section be revised as follows:

Local exchange access line service furnished by means of line concentrators or subscriber carrier equipment in a given exchange shall be ~~substantially equivalent in technical performance~~ reasonably comparable to that furnished to other subscribers in that exchange served by means of normal physical loops.

SDITC feels that the rule should reference more generally the local exchange services that differently situated customers receive, and should not specifically mention technical performance. The subsequent rule, ARSD § 20:10:33:04, in proposing certain minimum transmission levels, more specifically deals with technical performance and the provisions in that section are made applicable to all subscriber loops, including those that would be served by line concentrator or subscriber carrier equipment.

Requiring companies to specifically maintain "substantially equivalent" technical performance at all times, between all customers, could possibly serve as a disincentive for companies to deploy more advanced technology. Companies might decide against the deployment of new technology within their areas over concern that, upon starting the process of upgrades, the service they provide to all customers within their exchange areas would not be "substantially equivalent in technical performance". In other words, companies might have an incentive to purposely maintain a lower level of service to all customers to avoid any possible conflict with the rule provisions. Referencing "services" rather than "technical performance", and replacing the words "substantially equivalent" with "reasonably comparable" should eliminate this "disincentive."

In addition, revising the rule as noted above would be more consistent with the provisions of SDCL 49-31-84 which states, in pertinent part, that customers in rural and high cost areas shall have access to "telecommunications and information services", including interexchange services, that are reasonably comparable to those services provided in urban areas."

A study was recently completed for the SDITC by the telecommunications consulting firm of Martin & Associates. The study, entitled 1997 Telecom Act of South Dakota Summary and Impacts, is intended to reasonably quantify the costs that would be incurred by independent LECs in the State (all LECs other than US WEST), assuming the deployment of current technology, to meet the narrowband network requirements and, to some extent, the wideband network goals established by the state legislation enacted in 1997 (SDCL §§ 49-31-60 through 49-31-68). A short time ago, copies of such study, hereinafter referenced as "the Study," were provided to Commissioners and Staff. We would ask that the document be considered part of these comments.

The Study is relevant in these proceedings to analyzing the financial impact of the service requirement set forth in ARSD § 20:10:33:03 and requirements proposed in some of the other rule provisions, including §§ 20:10:33:04, 20:10:33:05 and 20:10:33:15. The Study shows that roughly 40 percent of the subscribers served by independent LECs are located more than 18,000 feet from a central office switch. This would include those rural subscribers that are presently served by analog carrier systems, which we estimate at approximately 6,500. In order to get advanced services of the type described in the state statutes to all subscribers, including the

analog carrier subscribers, very substantial additional investments in the loop facilities, field electronics, and switching equipment are needed.

The Study gives an indication of the extensive costs that are necessary to upgrade existing analog carrier equipment and, more broadly, all access lines serving rural, high cost consumers. The Study clearly shows that the investments required for ubiquitous deployment of advanced, as needed to bring like services to all customers, will not be feasible absent some State USF support.

If the Commission adopts ARSD § 20:10:33:03, SDITC believes the Commission has a corresponding obligation to commit itself to supporting any further efforts by SDITC and others in the industry to establish a State USF mechanism.

ARSD § 20:10:33:04. Minimum transmission levels for local exchange service.

With regard to ARSD § 20:10:33:04, SDITC would propose the following change to the language contained in subsection (1):

- (1) Transmission loss from the central office to the subscriber network interface or demarcation point for existing subscriber loops may not exceed 10dB at 1004 Hertz. All new, ~~upgraded~~, or replaced subscriber loops may not exceed 8dB at 1004 Hertz;

SDITC believes that the word "upgraded" is too vague and should be deleted because it could be interpreted to mean almost any type of work or equipment change occurring on a loop facility. Could it mean, for example, that companies would have to meet the 8dB standard when simply putting new repeater equipment on a subscriber loop? If the word "upgrade" is interpreted too broadly, it could force a premature replacement of existing loop facilities that could have very substantial financial impacts. The 8dB standard should only apply to the placement of new loop facilities or when the existing loop cable is actually replaced.

Regarding subsection (5) of the rules, SDITC does believe that high speed modem access is becoming an increasingly important issue with many consumers and that it is in the public interest to provide the highest modem speeds possible. The speed requirement defined in this rule is conservative and the great majority of SDITC member LEC subscribers will exceed this speed by a substantial margin. Unfortunately, however, 10 to 20 percent of the subscribers are very difficult to serve and even the data transmission standard prescribed in this rule could be difficult and expensive to meet for these consumers. It is SDITC's desire that these consumers

should enjoy the same level of services that others enjoy, but in the process of mandating a ubiquitous data transmission requirement, cost recovery issues also need to be considered.

This is especially true because the federal definition of universal service as established by 47 C.F.R. § 54.101 does not include any data transfer speed. The FCC rule requires "voice grade access" which is defined as "a functionality that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating that there is an incoming call." *Emphasis added.* The FCC rule specifies a specific minimum frequency range for the voice grade access of 300 to 3,000 Hertz, but does not indicate that the frequency range must accommodate any specific level of data transmission.

It therefore appears that if the Commission does mandate a minimum data transfer speed, that it may be establishing a definition of universal service that is different from that established at the federal level. The Federal Telecommunications Act of 1996, 47 U.S.C. § 254(f), gives the states authority to "adopt additional definitions and standards to preserve and advance universal service." The Act further provides, however, that this can only be done to the extent that the state regulations also adopt "specific, predictable, and sufficient mechanisms to support such definitions or standards that do not rely on or burden Federal universal service support mechanisms."

Along the lines of what ARSD § 20:10:33:04 proposes, SDITC supports the Commission's position that all customers, regardless of location, should have access to reasonable data transmission services. To the extent, however, that any different state definition of universal service is established, clearly under the federal law the state has a corresponding obligation to provide for any universal service funding that is necessary to make the additional required services available on a ubiquitous basis. The federal law specifically prohibits states from expanding the definition of universal service without also addressing universal service funding needs.

ARSD § 20:10:33:05. Minimum requirements for new, upgraded, or replaced facilities.

SDITC was informed by Commission Staff that the provisions of this rule are based on provisions found within the State Telecommunications Modernization Plans (STMPs) that Rural Utility Service (RUS) borrowers were required to prepare and file with the RUS. Upon review

of the specific, related language contained in the STMP forms referencing the 1 Mbps requirement, it appears that the rule provisions are not entirely consistent with the STMPs.

The language in the STMPs filed by South Dakota's rural telephone companies contains a 1Mbps requirement within a "Short-Term Requirements" section. That section reads as follows:

Short-Term Requirements

The short-term requirements start date is the date one year after the date RUS approves this Plan.

All new facilities providing wireline service after the short-term requirements start date, even if the construction began before such date, shall be constructed so that:

- every customer can be provided 1-party service
- the new facilities are suitable, as built or with additional equipment, to provide transmission and reception of data at a rate no lower than 1 Mb/sec.

All switching equipment installed by a telecommunications provider after the short-term requirements start date shall be capable of:

- providing custom calling features; at a minimum, customer calling features must include call waiting, call forwarding, abbreviated dialing, and three-way calling
- providing E911 service for areas served by the telecommunications provider when requested by the government responsible for this service.

Emphasis added.

For further reference purposes, a copy of the complete STMP as filed by all of the RUS borrowing LECs in the State is attached hereto as Appendix A.

The language used in ARSD § 20:10:33:05 is different in a couple of key respects from the STMP language. First, the word "upgraded" is used in the first sentence of the rule and it is not used in the STMP. The STMP 1 Mbps requirement only applies to the installation of new wireline service facilities. Secondly, that same sentence of the rule provides that the

"constructed, upgraded, or replaced" outside plant or subscriber loops "shall be able to provide, as built or with additional equipment, transmission and reception of data at a rate no lower than 1Mbps." The STMP does use this same language. It references that the "new facilities" must be "suitable, as built or with additional equipment" to provide the 1Mbps data transmission. SDITC believes that the word "suitable" should be used in ARSD 20:10:33:05 rather than the words "shall be able to provide". The words "shall be able to provide," to some degree, seem to conflict with the words "as built or with additional equipment" and imply that 1Mbps service would have to be made immediately available to customers, regardless if additional equipment may be needed to provide the service. The word "suitable" is cleaner and would allow for less misinterpretation.

SDITC asks the Commission to revise ARSD § 20:10:33:05 as follows:

Minimum requirements for new, upgraded, or replaced facilities. Outside plant, including subscriber loops, constructed, upgraded, or replaced after January 1, 1999, shall be able to provide suitable, as built or with additional equipment, to provide transmission and reception of data at a rate no lower than 1Mbps. New or replacement switching systems installed after January 1, 1999, shall be capable of providing custom calling features. At a minimum, custom calling features must include call waiting, call forwarding, abbreviated dialing, caller identification, and three-way calling. New or replacement switching systems installed after January 1, 1999, shall also be capable of providing enhanced 911 service.

ARSD § 20:10:33:09 Requirement for sufficient equipment and adequate personnel.

SDITC is concerned that ARSD § 20:10:33:09, as proposed, is extremely vague and might be interpreted to mean that all telephone companies, regardless of size, must at all times have an employee or employees physically present in the telephone office who are able to immediately fix any customer service problems. If interpreted as such, the rule could pose an enormous burden on smaller LECs. It would help to strike the word "available" and insert in its place the word "accessible". This would take into account the fact that many of the telephone companies rely on outside entities to provide some of their support services. SDITC proposes revising the rule as follows:

Requirement for sufficient equipment and adequate personnel. Each telecommunications company shall employ prudent management and engineering practices so that sufficient equipment and adequate personnel are available accessible at all times, including busy hours to respond to customer service problems.

ARSD § 20:10:33:12. Charges for construction of facilities.

SDITC opposes the adoption of ARSD § 20:10:33:12. First, we question why such a rule is necessary. If pursuant to RUS loan policy a particular local exchange carrier is not permitted to impose any extra customer charges as aid to the construction of facilities, why is an administrative rule imposing the same prohibition necessary?

Secondly, we believe that the results of the proposed rule, which would only apply to those LECs borrowing from the RUS, would be contrary to SDCL § 49-31-85 which requires the Commission to be "fair, reasonable and non-discriminatory" in its regulation of telecommunications carriers.

ARSD § 20:10:33:14. Provisioning of adequate and reliable facilities.

SDITC asks the Commission to revise ARSD § 20:10:33:14 as follows:

Provisioning of adequate and reliable facilities. Each local exchange company shall employ prudent management and planning practices, including budgeting and prioritization of resource utilization, so that adequate and reliable facilities are in place to supply service within a reasonable period of time to prospective customers in its service territory.

As proposed, the rule could lead to unreasonable expectations on the part of new customers as to when their service can be installed. Obviously, companies cannot anticipate precisely where all prospective customers will locate and some reasonable period of time is required to drop local loop facilities to new customer premise locations. Thus, it should be clarified in the rule that companies have a "reasonable period of time" to provide the requested service.

ARSD § 20:10:33:15. Survivable networks.

The standards set forth in ARSD appear to be consistent with the state statutes (SDCL §§ 49-31-60 through 49-31-68) and presently many of the SDITC member LECs are involved in the process of deploying SONET technology to bring greater reliability and more capacity to their telecommunications networks. However, to provide the survivable ring technology universally throughout South Dakota, particularly within the specific timeframe proposed in ARSD § 20:10:33:15, and at the same time avoid adverse rate impacts to rural exchange customers, some assistance through a State USF will be needed. The goal of deploying ubiquitous survivable ring

technology certainly does not come without a price tag and the Commission cannot ignore the cost recovery issues in prescribing these survivable ring standards.

With regard to the specific language used in ARSD § 20:10:33:15, SDITC proposes two specific changes. We first recommend changing the second sentence to make it more specifically tie in with the "interexchange facility network" referenced in the first sentence. The first two sentences of the rule, as presently written, use different language in describing the ring facilities and could be interpreted to refer to two different networks. Also, in our view, the deadline established of July 1, 2002, is very aggressive. It would be difficult, if not impossible, to meet the deadline even if a state USF was providing sufficient support for the infrastructure investments.

The rule proposed should also be more specific as to which switches are subject to the survivable ring requirement. Does it mean all switches, including those that allow for packet switched data services? Perhaps, it should more specifically reference each "telephone switch."

SDITC asks the Commission to consider the following revised version of ARSD § 20:10:33:15:

Survivable networks. All telecommunications interexchange facility networks, with the exception of extended area service routes, must be based upon a fully integrated backbone of interconnected, switched survivable rings. Each telephone switch must be directly connected to a ~~diversely routed, fully protected, survivable ring~~ this network. Each telecommunications company shall offer diverse routing of all of its dedicated interexchange telecommunications traffic. These requirements shall be met by July 1, 2002.

SDITC has not proposed a specific change to the deadline noted in the rule, but the date by which the survivable networks could be established is fully dependent upon the adequacy of a state universal service mechanism.

ARSD § 20:10:33:21. Auxiliary and battery power requirements.

SDITC would like to see this section changed to give companies more flexibility in the process of purchasing the necessary battery power equipment. Battery manufacturers typically develop battery plant in fixed, discrete sizes. In equipping central offices, flexibility should be given to allow companies to select the battery plant that most closely approximates 8 hours. If a particular series of battery plant falls just below the stated 8 hour requirement, the company may

incur a substantial additional cost to equip to the next size. SDITC therefore proposes the following new language:

20:19:33:21. Auxiliary and battery power requirements. Each local central office, toll switching office, or tandem switching office of a local exchange company shall be equipped with a battery plant designed for a minimum of eight hours (+/- 15%) of battery reserve rated for peak traffic load requirements. In addition, each central office shall have the capability of automatically transferring to a permanent auxiliary power unit in the event of a commercial power outage. The remote terminating electronics of a local exchange company shall be equipped with a local or remote battery plant designed for a minimum of eight hours (+/- 15%) of battery reserve rated for peak traffic load requirements. The batteries shall be tested and the results recorded internally on a regular basis, not to exceed once a year.

ARSD 20:10:33:23. Prevention of access line service interruptions – Reestablishment of service – Priority given to customers with medical condition and certain entities.

SDITC would like to see some clarification as to what is required of the customer or entity in reporting to the local exchange company. Requiring the affected customers or entities to more specifically provide “verifiable notice” to the company would provide some measure of assurance that the facts requiring service restoration priority actually exist. A process which would allow customers to simply make a call to the telephone company and claim a medical condition could be too easily abused.

ARSD § 20:10:33:25. Records of access line service interruptions.

SDITC is concerned with the requirement in the last sentence of the rule which would mandate reporting of any service interruption which is likely to be greater than four hours and would affect “access line service to 50 or more customers”. The SDITC member companies feel that the 50 line threshold is too low.

In our view, a threshold of 200 customers is more reasonable and necessary to avoid imposing an undue burden on the local exchange companies affected.

ARSD § 20:10:33:29. Reporting requirements when 911 service is disrupted or impaired.

As written, the rule could be interpreted to require reporting to the 911 public safety answering point, the local area news media, and the Commission concerning any outage of any customer's service. This is because any outage could be viewed as disrupting or impairing any single customer's access to the 911 service. We believe the rule is intended to apply only to

those situations where 911 service, in general, within an exchange is disrupted or impaired. To correct the rule, it should be revised as follows:

Repairing requirements when 911 service is disrupted or impaired. Each local exchange company shall, immediately upon discovery, report to each 911 public safety answering point serving the affected local service areas, to the local area news media ~~service~~ servicing the affected local service areas, and to the commission pertinent information concerning any specific occurrence or development which disrupts or impairs ~~customer~~ the local service area access to the 911 service within a given 911 system. In addition, each local exchange company shall provide the public safety answering point, the local area news media, and the commission with a time estimation on when the repair to the 911 system will be completed and the 911 service restored.

ARSD § 20:10:33:33. Failure to pay for services other than local exchange services not grounds to terminate local exchange service.

Presently, the federal rules only require that local exchange carriers that have been designated ETCs "may not disconnect Lifeline service for non-payment of toll charges." 47 C.F.R. 54.401(b). SDITC is opposed to expanding this requirement to all local exchange customers. The federal rule is appropriate given that Lifeline customers will generally be those customers who are less financially able to pay their toll bills on a timely basis. The same rule, however, should not be extended to customers who presumably can afford to pay their bills within the time established by their local exchange company for payment. The threat of or actual disconnection of local exchange services is one of the only means by which local exchange carriers, which perform billing and collection services for many toll carriers, can effectively force the timely payment of toll bills. The ability to take such action as a collection measure should not be prohibited in all cases. Customers who truly can afford to pay their long distance billings should not have an enhanced opportunity to avoid payment of their bill.

SDITC urges the Commission to delete the proposed ARSD § 20:10:33:29.

VII. ARSD Chapter 20:10:34, Prohibition Against Unauthorized Switching of Carriers and Charging for Unauthorized Services.

ARSD § 20:10:34:06. Telecommunications company liability.

In addition to the liability provisions proposed, SDITC urges the Commission to consider putting in the rule an additional subsection spelling out the violating company's liability to the

local exchange carrier which may spend considerable time and expense in dealing with slammed accounts. Most customers, upon discovering that they've been slammed, make their first contact with their local exchange company and, most often, the local company has no choice but to help the customer resolve the dispute.

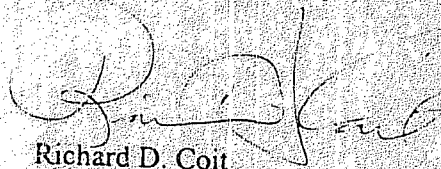
ARSD § 20:10:34:10. Authorized products or services.

The language in the rule requiring customer notice "prior to changing any rate, term, or condition of service" seems overly broad and could require notice in many cases where it is not desired by the customer. SDITC believes the notice requirement should be subject to some reasonable limitations. Accordingly, we propose that ARSD § 20:10:34:10 be revised as follows.

Authorized products or services. Any products or services listed on a subscriber's bill must be authorized by the subscriber. Prior to changing any rate, or term, or condition of that affects charges for the service or customer access to the service, a telecommunications company shall notify the subscriber of the change unless the subscriber has previously agreed, in writing, that no notification is necessary.

Dated this 20 day of November, 1998.

Respectfully submitted,



Richard D. Coit

Executive Director and
General Counsel