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June 1, 2010

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

Re: RM05-002

Dear Ms. Van Gerpen:

Attached are draft rules regarding switched access rates for competitive local exchange carriers. The Commission is providing any interested person the opportunity to comment on these draft rules prior to the Commission filing any proposed rules with the Legislative Research Council. Any interested person may file comments regarding the draft rules on or before June 15, 2010.

Based on the comments received, changes may be made to the draft rules. It is anticipated that proposed rules will then be filed with the Legislative Research Council to begin the formal rulemaking process. During that process, any interested person will again have the opportunity to file written comments, as well as provide comments at the hearing.

Sincerely,

Rolayne Ailts Wiest
Commission Counsel

CHAPTER 20:10:27

TELECOMMUNICATIONS SWITCHED ACCESS FILING RULES

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Appendix A Transport facility allocation example.

Appendix B Transport facility allocation example.

20:10:27:01. Definitions. Terms defined in SDCL 49-31-1 have the same meaning when used in this chapter. In addition, terms used in this chapter mean:

(1) "Association," a voluntary telecommunications company association formed by individual telecommunications companies for the purpose of jointly filing and administering a common or uniform switched access tariff;

(2) "Carrier's carrier," a telecommunications company which provides switched access services or facilities to another telecommunications company which in turn uses those services or facilities to provide telecommunications services to the public;

(3) "Competitive local exchange carrier," a telecommunications company that provides local exchange services in an area in which an incumbent local exchange carrier also provides local exchange services;

(4) "Competitive local exchange services," local exchange services that are provided by a competitive local exchange carrier within a competitive service area;

(5) "Competitive service area," a local exchange area within which both an incumbent local exchange carrier and a competitive local exchange carrier provide local exchange services;

~~(3)~~ (6) "Feature group A," a line side termination at the first point of switching;

~~(4)~~ (7) "Feature group B," a trunk side switching through the use of end office or access tandem switch trunk equipment;

~~(5)~~ (8) "Feature group D," an access service providing 1+ equal access;

(9) "Generally accepted accounting principles," a widely accepted set of rules, conventions, standards, and procedures for reporting financial information, as established by the Financial Accounting Standards Board;

~~(6)~~ (10) "Switched access," a telecommunications service which provides part or all of a communications path between the customer of the service and its end user which utilizes subscriber loop, transport, and switching functions;

~~(7)~~ (11) "Uniform system of accounts for telecommunications companies," a historical financial accounting system, codified at 47 C.F.R. Part 32, prescribed by the federal communications commission, which reports the results of operational and financial events of a telecommunications company in a manner which enables both management and regulators to assess these results within a specified accounting period.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:02. Determination of intrastate switched access charges for incumbent local exchange carriers -- General. Chapters 20:10:27 to 20:10:29, inclusive, establish rules for the determination of switched access charges for intrastate switched access services provided by each ~~carrier's~~ incumbent local exchange carrier operating in this state. Charges for switched access services shall be computed, assessed, and collected as provided in chapters 20:10:27 to 20:10:29, inclusive, except as provided in §§ 20:10:27:11 to 20:10:27:13, inclusive. For good cause, the commission may, on its own motion or by application from a carrier's carrier, temporarily waive or suspend any commission rule in chapters 20:10:27 to 20:10:29, inclusive.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:02.01. Determination of intrastate switched access charges for competitive local exchange carriers -- General. A competitive local exchange carrier shall charge intrastate switched access rates that do not exceed the rate of 6.042 cents per minute if 15 percent or more of the competitive local exchange carrier's total access lines in South Dakota are in communities of 10,000 inhabitants or more. The switched access rate shall be the same in each of the competitive local exchange carrier's service areas.

A competitive local exchange carrier shall charge intrastate switched access rates that do not exceed the rate of 9 cents per minute if 85 percent or more of the competitive local exchange carrier's total access lines in South Dakota are in communities with populations of less than 10,000 inhabitants. The switched access rate shall be the same in each of the competitive local exchange carrier's service areas.

Source:

General Authority: SDCL 49-1-11, 49-31-1.4, 49-31-4.1, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:02.02. Exceptions for switched access rates of competitive local exchange carriers. A competitive local exchange carrier may charge different rates than the rates established in § 20:10:27:02.01 if it meets one of the following exceptions:

(1) If a competitive local exchange carrier offers service with its own facilities throughout all the exchanges where it operates, the competitive local exchange carrier may charge intrastate switched access rates that do not exceed the rate established by § 20:10:27:12. A competitive local exchange carrier must offer local exchange service throughout all of the exchanges where it operates using its own facilities and may not rely on the facilities owned by an affiliate or subsidiary; or

(2) If a competitive local exchange carrier believes that a higher rate than the rate allowed under § 20:10:27:02.01 is justified under price regulation, the carrier may file a cost study in accordance with chapters 20:10:27 to 20:10:29 to determine its fully allocated cost of providing switched access services. In addition to considering the fully allocated cost of providing switched access services, the commission shall consider the other factors in SDCL 49-31-1.4 in its determination of the competitive local exchange carrier's price for switched access services.

Source:

General Authority: SDCL 49-1-11, 49-31-1.4, 49-31-4.1, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:03. Costs subject to commission's ratemaking determinations. The costs used to compute switched access charges are subject to the accounting and ratemaking determinations of the commission. The separations procedures are not to be interpreted as indicating what property, revenues, expenses, and taxes or what items carried in the income, reserve, and retained earnings accounts should or should not be considered in any investigation or rate proceeding.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:04. Uniform system of accounts used for classification – Petition to use generally accepted accounting principles. Each carrier's carrier shall classify its accounts of telecommunications property, revenues, and expenses as set forth in chapters 20:10:27 to 20:10:29, inclusive, by the method prescribed by the federal communications commission's uniform system of accounts for telecommunications companies in 47 C.F.R. Part 32 (October 1, 1991), except as provided in §§ 20:10:27:11 to 20:10:27:13, inclusive.

A carrier's carrier may petition the commission to use generally accepted accounting principles instead of the uniform system of accounts. The commission shall grant the

petition if the carrier's carrier demonstrates that its use of the uniform system of accounts is unduly burdensome and that it is able to map its accounts to substantially reproduce the process and end result produced by the uniform system of accounts.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:05. Separation of switched access costs -- Imputation. Those telecommunications companies that provide both intrastate switched access and intrastate message toll services shall remove those costs which are attributable to intrastate message toll services from the switched access costs otherwise derived from the use of chapters 20:10:28 and 20:10:29. Separated access costs and related access charges must be imputed to all intracompany toll service minutes of usage.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:06. Intrastate switched access service tariff -- Recovery of costs -- Return on investment. Each carrier's carrier or association shall file a tariff that is designed to recover no more than its intrastate switched access costs as determined by the commission and developed pursuant to chapters 20:10:28 and 20:10:29, including a commission-approved return on investment. The commission shall determine the allowed rate of return on net investment separately for each carrier's carrier.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:07. Filing of intrastate switched access service tariff. Each carrier's carrier or association shall file an initial tariff for switched access service with the commission. Each carrier's carrier or association shall file cost data in support of its switched access service tariff ~~no less than once every three years~~. Each carrier's carrier or association may file for a rate change in accordance with SDCL 49-31-12.2 to 49-31-12.4, inclusive. The commission may change or revise any switched access rate or price in accordance with SDCL 49-31-12 and 49-31-12.4.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:08. Filing of an association switched access service tariff. An association may file a switched access service tariff as an agent for all telecommunications companies that voluntarily participate in an association switched access service tariff. A revenue requirements study filed by the association is a composite of the individual association members' revenue requirements. The association's revenue requirement divided by consolidated minutes of use of all the individual association members results in the association's switched access rates. A telecommunications company or group of affiliated telecommunications companies that elects to withdraw from an association and file its own switched access service tariff shall notify the association and the commission at least 90 days in advance of the filing that it will no longer participate in the association switched access service tariff.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:09. Merger or acquisition of association switched access service tariff participant. An association switched access service tariff participant that is a party to a merger or an acquisition may continue to participate in the association switched access service tariff. The association switched access service tariff participant may include other telecommunications properties involved in the merger or acquisition in the association switched access service tariff.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:10. Use of computer program -- Petition to use company-specific computer program -- Certification. Each telecommunications company that files initial switched access rates or for a change in switched access rates shall use the computer program provided by the commission to determine switched access rates in accordance with chapters 20:10:28 and 20:10:29. However, a company may petition the commission to use its own company-specific computer program. The company's general manager or an authorized management representative of the company shall certify that the switched access rates filed with the commission were developed using the rules in chapters 20:10:27 to 20:10:29, inclusive. The commission may allow the use of such a computer program if it finds the program complies with chapters 20:10:27 to 20:10:29, inclusive.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:11. Petition to commission by an incumbent local exchange carrier for exemption from developing company-specific cost-based switched access rates. ~~A telecommunications company~~ An incumbent local exchange carrier may petition

the commission to be exempted from the requirements of developing intrastate switched access rates based on company-specific costs. The burden of proof is on the company to show that it lacks the necessary financial, technical, or managerial resources needed to determine company-specific cost-based intrastate switched access rates or that the additional costs associated with developing company-specific cost-based intrastate switched access rates outweigh any benefit to the consumer or customer.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:12. Determination of switched access rates for ~~a company~~ an incumbent local exchange carrier granted an exemption from developing company-specific cost-based switched access rates. The intrastate switched access rates of a ~~telecommunications company~~ an incumbent local exchange carrier which is granted its ~~petition for an~~ exemption pursuant to § 20:10:27:11 are based on the costs of all the telecommunications companies with less than 100,000 access lines that determine switched access costs pursuant to chapters 20:10:28 and 20:10:29. Switched access rates for ~~companies~~ incumbent local exchange carriers exempted pursuant to § 20:10:27:11 are calculated by dividing the sum of switched access revenue requirements for cost companies with less than 100,000 access lines for intraLATA and interLATA intrastate switched access traffic by the sum of switched access minutes for those same cost companies for intraLATA and interLATA intrastate switched access traffic.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:13. Determination of billing and collection costs for a company granted an exemption from developing company-specific cost-based switched access rates. The billing and collection costs for a telecommunications company whose switched access rates are determined pursuant to § 20:10:27:12 are based on the average of such costs for all telecommunications companies with less than 100,000 access lines that determine their switched access rates pursuant to chapters 20:10:28 and 20:10:29. The billing and collection costs for all cost companies with less than 100,000 access lines for intraLATA and interLATA intrastate calls are removed from the revenue requirement reported for those companies prior to the calculation of switched access rates for exempted companies as described in § 20:10:27:12.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:14. Historical test year. The commission shall adopt a recent test year for which actual costs have been recorded and, if required, adjust the actual costs to reflect

changes that are known and measurable. No adjustments are permitted unless they are based on changes in facilities, operations, or costs which are known with reasonable certainty and measurable with reasonable accuracy at the time of the filing. Such adjustments must become effective within 12 months of the last month of the test period. Expected changes in revenue must also be shown for the same period. Includable costs are limited to those which are necessary for the provision of service at the test year level. The test period shall consist of 12 months of actual experience ending no earlier than 6 months before the date of filing initial switched access rates or for a change in switched access rates. Test year costs shall be allocated to intrastate switched access service pursuant to chapters 20:10:27 to 20:10:29, inclusive.

A carrier's carrier may request and the commission may grant an extension of the six month filing period.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:15. Nonrecurring costs or revenues. Subject to the commission's determination of fairness and reasonableness, nonrecurring costs may be included in the cost of service and amortized over a period of time. The amortization time period shall be determined separately for each switched access rate filing. Nonrecurring, as well as recurring, revenues may be used to cover costs.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:16. Inclusion of telecommunications plant under construction or telecommunications plant held for future use in investment base.

Telecommunications plant under construction or property held for future telecommunications use may be included in a telecommunications company's investment base only if the commission determines that the inclusion is in the public interest.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:17. Contracts with deviations. A telecommunications company may file a contract with deviations with the commission whereby switched access rates which deviate from the tariffed switched access rates as determined by chapters 20:10:27 to 20:10:29, inclusive, are set by contract between the telecommunications company and a customer. The commission may approve such a contract, after investigation, if it finds the rates are fair and reasonable.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-11, 49-31-18.

20:10:27:18. List of contracts with deviations to be filed -- Form. A telecommunications company providing switched access service to a customer under a contract with deviations shall maintain an up-to-date summary list of all such contracts in its switched access tariff schedule. The list shall be designated the list of contracts with deviations and must show at least the following information regarding each contract:

- (1) The name and location of each customer;
- (2) The type or class of service;
- (3) The execution and expiration dates;
- (4) The most comparable regular switched access tariff by schedule number and any contract differences.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-11, 49-31-18.

20:10:27:19. List of contracts with deviations to be filed within 30 days. Two copies of the list of contracts with deviations shall be filed within 30 days after commission approval of a deviation or of the expiration or cancellation of any currently listed contract deviation. If there are no contracts with deviations, "none" shall be shown on the list.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-11, 49-31-18.

20:10:27:20. Phase-in of switched access rates. Switched access rates for a telecommunications company may be phased-in over a period of time if the commission finds the implementation of switched access rates as determined by the rules in chapters 20:10:27 to 20:10:29, inclusive, will result in a significant change in switched access rates or revenues and that a phase-in of rates is in the public interest. The length of any phase-in period shall be determined by the commission.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:21. Feature group A and B discounts. Feature group A and Feature group B discounts shall continue to be offered at the level of current discounts in all local exchanges which do not offer Feature group D. When Feature group D is offered in a local exchange, Feature group A and Feature group B discounts may no longer be offered in that exchange.

Source: 19 SDR 111, effective January 31, 1993.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.

20:10:27:22. Exemption for high capacity special access services. Local exchange companies subject to SDCL 49-31-5.1 which provide high capacity special access services to educational or medical entities for either distance learning or telemedicine applications may exempt certain investment and expense for such services from the cost separation procedures established by chapters 20:10:27 to 20:10:29, inclusive. The percentage of exempt working circuits to the total working circuits and unused capacity determines the amount of exempt investment and expense excluded from the switched access revenue requirement determined pursuant to chapters 20:10:28 and 20:10:29. Each working circuit used in providing the exempt services is counted as one circuit. High capacity special access services for purposes of this section include all channels with transmission speeds greater than 64 kilobytes per second (kbps).

Source: 20 SDR 189, effective May 22, 1994.

General Authority:SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented:SDCL 49-31-18.

Note: A Digital Services 0 (DS0), a Digital Services 1 (DS1), or a Digital Services 3 (DS3) is counted as one circuit. The chart in Appendix A at the end of this chapter shows an example of a transport facility allocation using a 150 megabyte fiber system.

20:10:27:23. Other special access services. Notwithstanding the provisions of chapters 20:10:27 to 20:10:29, inclusive, local exchange companies subject to SDCL 49-31-5.1 may assign investment and expense to all other special access services not qualifying for exemption under § 20:10:27:22 by converting each circuit used to provide special access services other than in § 20:10:27:22 to voice-grade-equivalent circuits and using the percentage of special access circuits to the total working circuits and unused capacity to determine the amount of investment and expense excluded from the switched access revenue requirement determined pursuant to chapters 20:10:28 and 20:10:29. This section does not allow the local exchange company to exempt investment and expense if a special access customer resells or leases the services subject to the exemption in this section.

Source: 20 SDR 189, effective May 22, 1994.

General Authority: SDCL 49-1-11, 49-31-5, 49-31-18.

Law Implemented: SDCL 49-31-18.