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June 28, 2010

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VIA EMAIL TO PATTY.VANGERPEN@STATE.SD.US

Ms. Patricia Van Gerpen
South Dakota Public Utilities Commission
Capitol Building, 1st Floor
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Pierre, SD 57501-5070

RE: *TC10-014 - In the Matter of the Investigation of Pricing Regulation for Switched
Access Services Provided by Competitive Local Exchange Carriers*

Dear Ms. Van Gerpen:

Attached for filing in the above matter, please find the Reply Comments of
SSTELECOM, Inc.

As indicated above, this document has been sent to you via electronic mail in PDF
form. If you have any questions or concerns regarding this document, please do not
hesitate to contact me.

Best regards.

Sincerely,

CUTLER & DONAHOE, LLP



Meredith A. Moore
For the Firm

MAM/cml
Attachment
cc: Service List

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

IN THE MATTER OF THE
INVESTIGATION OF PRICING
REGULATION FOR SWITCHED
ACCESS SERVICES PROVIDED BY
COMPETITIVE LOCAL EXCHANGE
CARRIERS.

TC10-014

**REPLY COMMENTS
OF SSTELECOM, INC.**

By letter dated June 16, 2010, Commission Counsel authorized the parties involved in this docket to file reply comments. Pursuant to that authorization, SSTELECOM, Inc. respectfully submits the following in reply to comments filed in the above-referenced docket on June 15, 2010.

No compelling reason has been articulated to jettison or otherwise dramatically revise the rules proposed by the Commission on June 1, 2010, regarding switched access rates for competitive local exchange carriers (the "Proposed Rules"). The primary crux of the objections to the Commission's proposed rules is that there is no justification to treat CLECs differently. The suggestion has been made that it is poor public policy to allow a CLEC which provides service throughout the entirety of the territory or chooses to compete in a rural area to obtain a higher rate than one which does not. The remedy proposed by these parties is to redraft the Proposed Rules to allow a CLEC to mirror the rate, and only that rate, charged by the ILEC operating in the area in which the CLEC chooses to complete. These objections and arguments, however, ignore established and beneficial public policy.

Establishing a regulatory scheme in which every CLEC, regardless of any distinguishing structural characteristics and the nature and extent of the territory in which it chooses to complete, potentially provides a CLEC the opportunity to take advantage of an ILEC or RLEC's rates. As previously explained in the testimony offered on behalf of a number of ILECs, RLECs and CLECs in Commission Docket TC 10-014, an ILEC's tariffed rates are based upon an exceedingly detailed accounting of its costs as presented through a cost study mandated by the FCC. Simply allowing any and every CLEC to avail itself of the unfettered option to use an ILEC or RLEC's rate without imposing the same requirements upon the CLEC for the provision of its service is wrong and unsupportable.

The FCC has recognized a "Rural Exemption" in the context of CLECs. See Commission Docket TC 10-014, *In the Matter of the Investigation of Pricing Regulation for Switched Access Services Provided by Competitive Local Exchange Carriers*, Testimony of Dan Davis on behalf of SDTA dated April 1, 2010, p. 8, lines 6-18. As explained by Mr. Davis, the distinction was drawn in order to "give some recognition to the different costs experienced by rural CLECs competing in truly rural, high-cost areas versus those that have operations in the lower-cost areas of larger price cap regulated incumbent carriers." *Id.* at lines 7-10. As outlined in Mr. Davis' testimony, the FCC

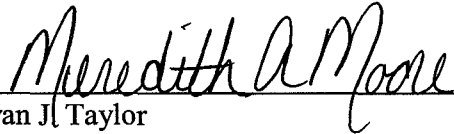
further recognized that a CLEC may be entitled to a higher rate so long as it provides service in an area of fewer than 50,000 inhabitants. The simple fact that there are only two cities in South Dakota which have a population of greater than 50,000 makes it impractical to impose an identical framework in this state. However, it is instructive and the same rationale, with modifications, can be implemented here. The Proposed Rules account for the unique geographic and population characteristics of South Dakota by defining its rate demarcation according to not only population, but also line count.

All CLECs are not created equal. If they wish to be treated equally, then they need to provide service in the exact same manner as the ILEC in the territory in which they choose to compete. However, until all CLECs do exactly so, the simpler proposal advocated by a number of the parties in this docket is not necessarily better as it fails to account for the distinctions between CLECs in South Dakota, which distinctions are readily apparent. In keeping with the intent of the May 4, 2010 Commission Order approving price regulation for CLECs, the Proposed Rules are consistent with the key rural safeguard concept inherent in state and federal law. Accordingly, SSTELECOM respectfully requests that the Commission approve the Proposed Rules in their current form and file them with the Legislative Research Council for further action.

Dated this 28th day of June, 2010.

Respectfully Submitted,

CUTLER & DONAHOE, LLP
Attorneys at Law

A handwritten signature in cursive script, reading "Meredith A. Moore", is written over a horizontal line.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served electronically on the 28th day of June, 2010, upon the following:

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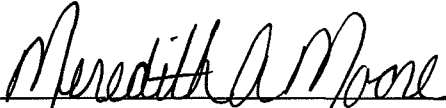
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One of the attorneys for SSTELECOM, Inc.