

## **PUBLIC UTILITIES COMMISSION MINUTES OF PUBLIC HEARING**

The Public Utilities Commission convened the public hearing at 9:00 a.m. on August 2, 2007, in Room 413 of the State Capitol Building.

The purpose of the meeting was to conduct a public hearing on the proposed changes to the Commission's telecommunications rules.

The hearing was conducted by Commissioner Dustin Johnson. Commissioners Gary Hanson and Steve Kolbeck were also present.

Others in attendance: Rich Coit, representing the South Dakota Telecommunications Association (SDTA); Darla Pollman Rogers, representing Golden West Telecommunications Cooperative, Valley Telephone, Venture Communications Cooperative, and SDTA; Margo Northrup, representing SDTA and Venture Communications Cooperative; David Gerdes, representing Midcontinent Communications (Midcontinent); Jason Topp, Larry Toll, and Colleen Sevold, representing Qwest Corporation; Rolayne Ailts Wiest, Commission Attorney; Greg Rislov, Commission Advisor; Harlan Best, Commission Analyst; and Patty Van Gerpen, Commission's Executive Director.

### **Written Comments**

The Commission received written comments from Midcontinent Communications and Qwest Corporation.

### **Oral Comments**

Rich Coit, representing SDTA, stated that the Commission should clarify in 20:10:32:03 that local exchange companies must still file switched access rates for approval with the Commission. For 20:10:32:10 regarding the service obligations of carriers, he was concerned that the standard for the waiver of any of the service obligations should be more specific in order to safeguard consumers. For 20:10:32:29(8) which addresses petitions for arbitrations, Mr. Coit opposed the requirement to file prefiled testimony with a petition for arbitration. He suggested that the Commission establish a procedural schedule early in the proceeding or not allow prefiled testimony given the short time frame for a Commission decision in arbitrations. He also opposed the filing of prefiled testimony along with the response to a petition for arbitration in 20:10:32:30. Similarly, for 20:10:32:39 which addresses petitions for suspension or modification of interconnection requirements, he opposed requiring the filing of prefiled testimony with the petition. He believed the Commission should maintain some flexibility in how it would proceed with these types of petitions. For 20:10:34:02.02(3)(e), he found the language regarding the transfer of a subscriber to the acquiring carrier confusing. Mr. Coit supported 20:10:32:31.01 which allows for the participation of a non-party in an arbitration proceeding through the filing of written comments. He explained that arbitrations frequently involve policy issues that will affect carriers that are not involved in the arbitration and therefore these carriers should be allowed an opportunity to comment on the issues. With respect to 20:10:33:22 which addresses customer notification of planned service outages, he stated that the rule should be clarified so that short

interruptions do not require notification. He noted that a number of planned interruptions are done in the middle of the night.

Jason Topp, representing Qwest Corporation, noted that there were positive and negative aspects of requiring the filing of prefiled testimony with arbitration proceedings in 20:10:32:29(8). He said it was good in the respect that when parties file, they will be ready to proceed but it may result in having more arbitrations filed. He said often the problems associated with the short time frame for a Commission decision are alleviated by the parties agreeing to extensions. He opposed the requirement to file cost studies with the arbitration petition. 20:10:32:29(10). Mr. Topp stated that cost proceedings should be separate. He also expressed concern with having to file prefiled testimony with a party's response in 20:10:32:30. He thought the rule should have more flexibility. He opposed 20:10:32:31.01 which allows limited participation by a non-party in an arbitration proceeding. He stated that it is a problem when non-parties file proposed language to be included in arbitrated interconnection agreements.

Dave Gerdes, representing Midcontinent, also opposed 20:10:32:31.01. He noted that parties can file for intervention in a contested case proceeding. For 20:10:24:02(2) and 20:10:32:03(2), he suggested adding the words "legal and" before the words "organizational structure" to ensure that all types of structures would be disclosed when an applicant files for a certificate of authority. For 20:10:24:02(14) and 20:10:32:03(22), he suggested that it should be "material" adverse change, instead of "materially" adverse change. He also stated that "materially adverse" should be defined. For 20:10:33:22 which addresses customer notification of planned services interruptions, Mr. Gerdes recommended that a short time frame or a certain number of customers be included when notification would not be required.

Darla Pollman Rogers, representing SDTA, Golden West, Venture, and Valley, opposed 20:10:32:29(8), (9), and (10). She stated that it would be very difficult to file testimony, exhibits, and cost studies with a petition for arbitration. She also said it would be a disincentive to continue to negotiate. She suggested that given the short time frame for a decision, the Commission could eliminate the filing of prefiled testimony. Similarly, she opposed 20:10:32:39(6) which also requires testimony and exhibits when filing a petition for suspension or modification of interconnection requirements. Ms. Rogers also questioned whether in 20:10:34:02.02(3)(e) customers needed to be notified that preferred carrier freezes would be lifted.

Respectfully submitted,

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Rolayne Ailts Wiest  
Commission Attorney