



Richard D. Coit  
Executive Director  
rcoit@sd.itcnet.net

March 2, 2000

RECEIVED

MAR 2 2000

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Mr. Bill Bullard, Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Ave.  
State Capitol Building  
Pierre, SD 57501

RE: Reciprocal Transport and Termination Agreements

Dear Bill:

Enclosed for Commission review pursuant to 47 U.S.C. § 252(e) are true and correct copies of "Reciprocal Transport and Termination Agreements" negotiated and entered between GCC License L.L.C. (an affiliate of Western Wireless Corporation) and the independent local exchange carriers listed below:

Accent Communications Inc.  
Armour Independent Telephone Company  
Baltic Telecom Cooperative  
Beresford Municipal Telephone Company  
Bridgewater-Canistota Independent Telephone Company  
City of Faith Telephone  
East Plains Telecom, Inc.  
Fort Randall Telephone Company  
Golden West Telecommunications Cooperative, Inc.  
Hanson Communications, Inc.  
Hanson County Telephone Company  
Heartland Communications, Inc.  
Interstate Telecommunications Cooperative, Inc.  
James Valley Cooperative Telephone Company  
Jefferson Telephone Company, Inc.  
Kadoka Telephone Company  
Kennebec Telephone Company, Inc.  
McCook Cooperative Telephone Company  
Midstate Telephone Company  
Mt Rushmore Telephone Company



RC Communications, Inc.  
Roberts County Telephone Cooperative  
Sanborn Telephone Cooperative  
SANCOM, Inc.  
Sioux Valley Telephone Company  
Splitrock Properties, Inc.  
Splitrock Telecom Cooperative, Inc.  
Stateline Telecommunications, Inc.  
Stockholm/Strandburg Telephone Company  
Sully Buttes Telephone Cooperative, Inc.  
Union Telephone Company  
Valley Cable & Satellite Communications, Inc.  
Valley Telecommunications Cooperative  
Venture Communications, Inc.  
Vivian Telephone Company  
West River Telecommunications Cooperative (Bison)  
Western Telephone Company

SDITC, on behalf of the above listed companies, and GCC License L.L.C. are requesting Commission approval of each of the negotiated agreements. All of the agreements are identical in their terms and conditions, and the rates agreed upon are reflected in "Exhibit A" attached to each agreement. The agreements have already been signed and carry a retroactive effective date agreed to by the parties.

Sincerely,



Richard D. Coit  
Executive Director and General Counsel

RDC/ms  
Encls.

cc: Gene DeJordy, Western Wireless Corporation

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TC00-021

MAR 02 2000

## Reciprocal Transport and Termination Agreement

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

Reciprocal Transport and Termination Agreement (the "Agreement") entered into by and between GCC License LLC ("CMRS Provider") with offices at 3650 131st Ave., S.E., Bellevue, Washington 98006 and Armour Ind. Tel. Co. ("Carrier") with offices at 116 N. Main Ave., Hartford S.D. CMRS Provider and Carrier are each individually a "Party" and are together the "Parties" to this Agreement. The "effective date" of this Agreement is January 1, 1999.

CMRS Provider is licensed by the Federal Communications Commission ("FCC") as a Commercial Mobile Radio Service provider. Carrier and CMRS Provider agree to exchange wireline to wireless and wireless to wireline traffic for the benefit of the Parties. Services provided by Carrier to CMRS Provider under this Agreement are provided pursuant to the receiving Party's status as a CMRS Provider.

WHEREAS, the Parties currently extend arrangements to one another allowing for the transport and termination of wireline to wireless and wireless to wireline traffic over each other's network facilities, between each other's subscribers; and

WHEREAS, the Parties wish to put in place an arrangement for the mutual exchange and reciprocal compensation of local telecommunications traffic in accord with the Telecommunications Act of 1996, and which is intended to supersede any previous arrangements between the parties relating to such traffic;

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CMRS Provider and Carrier hereby agree as follows:

1. Scope. This Agreement addresses the parties' reciprocal compensation obligations as described in § 251(b)(5) of the Telecommunications Act of 1996 (the "Act"). By this Agreement, neither Party waives any other rights it may have under the Act or rules of the FCC, under state statute, or pursuant to rules of the State Public Utilities Commission ("Commission"). Such rights may include CMRS Provider's right to request unbundled network elements and a review of Carrier's rural telephone company exemption provided for under § 251(f)(1)(A) of the Act and Carrier's right to seek to maintain the rural exemption.

2. Interpretation and Construction. The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations or guidelines that subsequently may be prescribed by any federal, state or local government authority. To the extent required by any such subsequently prescribed law, rule, regulation or guideline, the Parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, regulation or guideline.

The Parties agree and understand that certain provisions in this Agreement are based on the FCC's First Report and Order, In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, rel. Aug. 8, 1996 ("FCC 1st Order") and the Second Report and Order and Memorandum Opinion and Order, In the Matter of the Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, rel. Aug. 8, 1996 ("FCC 2nd Order"). To the extent that certain of the rules contained in the FCC 1st Order and the FCC 2nd Order, or any other FCC Order adopted to implement the Telecommunications Act of 1996, are ultimately deemed by the courts to be not effective, this Agreement shall be modified to comport with the final court decisions and subsequent FCC rules adopted to comply with the court's decisions.

The Parties further agree and understand that the rates for local transport and termination agreed to, as set forth in Exhibit A hereto, have not been determined based on a specific costing methodology or company specific cost studies and that they may have to be adjusted when an appropriate costing methodology consistent with § 252(d)(2) of the Telecommunications Act is established and actual cost information or an acceptable cost proxy which reasonably reflects the actual costs of providing the local transport and termination services becomes available.

The Parties enter into this agreement without prejudice to any position they may take with respect to similar future agreements between the Parties or with respect to positions they may have taken previously, or may take in the future in any legislative, regulatory or other public forum addressing any matters, including matters related to the rates to be charged for transport and termination of local traffic or the types of arrangements prescribed by this agreement.

### 3. Definitions.

3.1 "Act" means the Communications Act of 1934 (47 U.S.C. 151 et seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the FCC or the Commission within its state of jurisdiction.

3.2 "CMRS" or "Commercial Mobile Radio Service" is as defined in the Communications Act of 1934 as amended by the Telecommunications Act of 1996.

3.3 "Commission" means the South Dakota Public Utilities Commission.

3.4 "Local Calling Area (LCA)" for purposes of this Agreement, is a geographic area defined by the Major Trading Area (MTA) within which CMRS Provider provides CMRS services where local transport and

termination rates apply as set forth in FCC 1st Order and 47 CFR 51.701(b)(2).

3.5 "Local Traffic" for purposes of this Agreement means traffic which originates and terminates, based on the location of the wireless subscriber and landline end user, within the same CMRS LCA.

3.6 "Major Trading Area (MTA)" is a geographic area established in Rand McNally's Commercial Atlas and Marketing Guide and used by the FCC in defining CMRS license boundaries for CMRS providers for purposes of Sections 251 and 252 of the Communications Act of 1934 as amended.

3.7 "Non-Local Traffic" is the completion of interMTA calls based on the location of the wireless subscriber and the land line end user and the completion of that roaming traffic, as defined in FCC 1st Order, par. 1043, to which switched access charges are applicable.

3.8 "Reciprocal Compensation Credit" for purposes of this Agreement and based on current traffic trends is a monetary credit for wireline to wireless traffic which is originated by a landline subscriber of Carrier and terminates to a subscriber of CMRS Provider within the LCA. Should traffic patterns change so that more wireless traffic is terminated by CMRS Provider than Carrier within a prescribed billing period, the reciprocal compensation credit shall be changed to reflect such difference.

3.9 "Transit Traffic" is traffic that originates from one provider's network, transits another telecommunication carrier's network, substantially unchanged, and terminates to yet another provider's network.

3.10 "Wireless Traffic" for purposes of this Agreement, means all calls in either direction between a user of CMRS Provider's CMRS (where CMRS Provider provides the wireless equivalent of dial tone to the user) and an end user served by Carrier.

4. Reciprocal Traffic Exchange. Each Party shall reciprocally terminate wireless local traffic originating on each other's network. Reciprocal traffic exchange addresses the exchange of wireless traffic between CMRS Provider subscribers and Carrier end users. Consistent with Carrier's current practice with CMRS Provider, either Party's wireless local traffic may be routed through an intermediary for interconnection with the other Party's system. Any such arrangement may be modified by a separate agreement if both Parties wish to provide for two-way direct interconnection. Reciprocal traffic exchange per this Agreement covers only transport and termination services provided for CMRS providers only in association with CMRS services. Other services, including any direct interconnect arrangement established between the parties, shall be covered by a separate contract, tariff or price list. The transport and termination services

provided hereunder are intended for wireless to wireline or wireline to wireless but not wireline to wireline communications. Such services will not be used to terminate other types of traffic on Carrier's network (such as wireline originated traffic) and services used in violation hereof shall constitute a breach of this Agreement. In addition to any other remedies available, the Party whose services have been improperly used shall be entitled to recover the charges applicable to such traffic for the entire period of misuse. Any incidental services (e.g. directory assistance, operator services, etc.) will be billed at the standard rates for those services.

5. Local and Non-Local Traffic. This Agreement is intended to address the transport and termination of local wireless traffic between the Parties. Local wireless traffic is subject to only the local transport and termination charges set forth below and is not subject to switched access charges. Non-local traffic is subject to either interstate or intrastate switched access charges, whichever is applicable.

Ancillary traffic which includes wireless traffic that is destined for ancillary services including, but not limited to, directory assistance, 911/E911, operator call termination (busy line interrupt and verify), 800 888, LIDB, and information services requiring special billing will be exchanged and charged in accordance with the appropriate tariffs, local or switched access.

CMRS Provider agrees that it shall not use the services provided by Carrier under this Agreement for the transport and termination of non-local wireless traffic. Any use of the services for non-local traffic shall constitute a breach of this Agreement and, with respect to such improper use, in addition to any other remedies available, Carrier shall be entitled to recover the charges applicable to such traffic for the entire period of misuse.

For billing purposes, if either Party is unable to classify on an automated basis traffic the local wireless traffic delivered by CMRS Provider as intrastate or interstate, CMRS Provider will provide Carrier with a Percent Interstate Use (PIU) factor, which represents the estimated interstate portion of intraMTA traffic delivered by CMRS Provider. The PIU factor will be provided and updated on a semi-annual basis to commence six (6) months after Commission approval of this Agreement.

6. Local Transport and Termination Rate. CMRS Provider and Carrier shall reciprocally and symmetrically compensate one another for wireless local traffic terminated to their end users. The rate(s) for the termination and transport of such traffic are as set forth in Exhibit A attached hereto. Carrier will be responsible for measuring the total monthly minutes of use terminating into its network from CMRS Provider's network. Measured usage begins when CMRS Provider's mobile switching office is signaled by the terminating end office that the call has been answered. Measured usage ends upon recognition by the mobile

switching office of disconnection by the earlier of the Carrier's customer or the disconnection signal from the terminating end office. Carrier will only charge CMRS Provider for actual minutes of use and/or fractions thereof of completed calls. Minutes of use will be aggregated at the end of the billing cycle and rounded to the nearest whole minute.

7. Transit Traffic Rates. For transiting local traffic, the applicable local transit rate applies to the originating Party per Exhibit A attached.

8. Reciprocal Compensation Credit. The monthly minutes of use terminated into CMRS Provider's network from Carrier's network for purposes of this Agreement, which will determine the reciprocal compensation credit due CMRS Provider, will be calculated using the formula set forth in Exhibit A.

The resulting number shall be multiplied by the local transport and termination rate to determine the monthly reciprocal compensation credit. The reciprocal compensation credit for the local transport and termination will appear on the monthly bill as a credit against amounts due and payable from CMRS Provider to Carrier.

9. Billing and Collection Fees. CMRS Provider will only bear the portion of billing and collecting fees that are associated with wireless traffic transport and termination to its subscribers. This will apply to billing and collection costs incurred by the Carrier directly or indirectly. For the purpose of this Agreement, CMRS Provider will bear cost for billing and collection services in order for the Carrier to render an accurate bill in an amount not to exceed the percentage used to calculate the reciprocal compensation credit to CMRS Provider per Exhibit A of total direct or indirect billing and collection costs incurred by the Carrier. Billing and collection arrangements entered into by CMRS Provider or the Carrier with any intermediaries will be addressed separately and are not part of this Agreement.

10. Term. Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be one (1) year from the effective date and shall continue in effect for consecutive one (1) year terms until either Party gives the other Party at least sixty (60) days written notice of termination, which termination shall be effective at the end of the notice period.

11. Termination Upon Default. Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party, provided however, that the non-defaulting Party notifies the defaulting Party in writing of the alleged default and that the defaulting Party does not cure the alleged default within thirty (30) calendar days of receipt of written notice thereof.



12. Liability Upon Termination. Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect for any act or omission occurring prior to the termination relating to an obligation which is expressly stated in this Agreement. The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination of this Agreement.

13. General Responsibilities of Parties. Each Party is responsible to provide facilities within its ~~network~~ which are necessary for routing and terminating traffic from the other Party's ~~network~~.

14. Assignments, Successors and Assignees. Notwithstanding anything to the contrary contained herein, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their successors and assignees.

15. Force Majeure. Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control, including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, other major environmental disturbances or unusually severe weather conditions (collectively, a "Force Majeure Event").

16. No Third Party Beneficiaries. This Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.

17. Notices. Notices given by one Party to the other Party under this Agreement shall be in writing to the addresses of the Parties set forth above and shall be (i) delivered personally; (ii) delivered by express delivery service; (iii) mailed, certified mail or first class U.S. mail postage prepaid, return receipt requested; or (iv) delivered by telecopy.

18. Governing Law. For all claims under this Agreement that are based upon issues within the jurisdiction of the FCC, the Parties agree that remedies for such claims shall be governed by the FCC and the Communications Act of 1934, as amended. For all claims under this Agreement that are based upon issues within the jurisdiction of the State Public Utilities Commission, the parties agree that the jurisdiction for all such claims shall be with such Commission, and the remedy for such claims shall be as provided for by such Commission. In all other respects, this Agreement shall be governed by the domestic laws of the state of South Dakota without reference to conflict of law provisions.


19. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 23rd day of September, 1999.

"CMRS Provider" GCC License LLC  
(type company name)

By: 

"Carrier" Armour Ind. Tel. CO.  
(type company name)

By: 

## EXHIBIT A Page 1

ILEC	Exchange Lines	MOU Rate
Accent Communications	1,933	\$0.028
Armour Telephone Company	692	\$0.038
Baltic Telecom Cooperative	1,577	\$0.028
Beresford Municipal Telephone Company	1,190	\$0.033
Bridgewater-Canistota Independent	965	\$0.033
Brookings Telephone	14,424	\$0.028
Cheyenne River Sioux Tribe Tele. Authority	2,824	\$0.028
East Plains Telecomm, Inc	1,127	\$0.033
Faith Municipal Telephone	368	\$0.050
Fort Randall Telephone	5,865	\$0.028
Golden West Telecom. Cooperative, Inc.	14,403	\$0.028
Hanson Communications, Inc	1,019	\$0.033
Hanson County Telephone Company	519	\$0.038
Heartland Communications	1,610	\$0.028
Interstate Telecommunications Cooperative	14,764	\$0.028
James Valley Cooperative Telephone	2,126	\$0.028
Jefferson Telephone Company	525	\$0.038
Kadoka Telephone Company	600	\$0.038
Kennebec Telephone Company	750	\$0.038
McCook Cooperative Telephone Company	615	\$0.038
Midstate Telephone Company	2,981	\$0.028
Mobridge Telecommunications Company	2,482	\$0.028
Mt. Rushmore Telephone Company	546	\$0.038
Roberts County Telephone Coop.	448	\$0.050
RC Communications	1,428	\$0.033
Sanborn Telephone Cooperative	2,613	\$0.028
Sancom, Inc.	2,449	\$0.028
Sioux Valley Telephone Company	5,586	\$0.028
Splitrock Telecom Cooperative, Inc.	4,385	\$0.028
Splitrock Properties, Inc.	1,560	\$0.028
Stateline Telecomm., Inc.	2,301	\$0.028
Stockholm-Strandburg Telephone Company	714	\$0.038
Sully Buttes Telephone Cooperative, Inc.	4,082	\$0.028
Tri-County Mutual Telephone Company	443	\$0.050
Union Telephone Company	1,575	\$0.028
Valley Telecommunications Coop. Assn.	1,985	\$0.028
Valley Cable & Satellite	1,601	\$0.028
Venture Communications, Inc.	7,106	\$0.028
Vivian Telephone Company	17,919	\$0.028
West River Cooperative-Bison	1,589	\$0.028
West River Telecom-Hazen	724	\$0.038
Western Telephone Company	1,102	\$0.033

"Exhibit A"

Page 2

-TRANSIT TRAFFIC RATE  
\$0.0005 per MOU per route mile

- RECIPROCAL COMPENSATION CREDIT - CALCULATION

Multiply the total monthly local minutes of use of wireless traffic delivered from CMRS Provider's network for termination into Carrier's network by a factor of 0.17.

# South Dakota Public Utilities Commission

State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070



March 30, 2000

William Bullard, Jr.  
Executive Director  
Public Utilities Commission  
500 E. Capitol Avenue  
Pierre, SD 57501

RE: In the Matter of the Reciprocal Transport and Termination Agreements  
TC00-020 through TC00-056, Inclusive

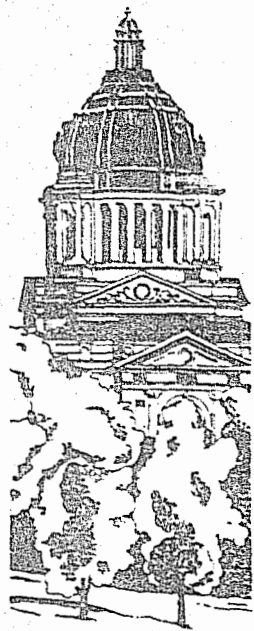
Dear Mr. Bullard:

Please consider this to be the Staff analysis and recommendation in the filing of these reciprocal transport and termination agreements.

Based upon the representation of Richard Coit on behalf of SDITC, that all the agreements are identical in their terms and conditions, I will therefore direct my comments to these agreements in such a manner.

It is to be noted that the effective date of the agreement is January 1, 1999. These were not tendered to this Commission until March 2, 2000, approximately a year and two months after the effective date. It is submitted that giving the agreements a retroactive effect would be contrary to the public interest for a couple of reasons. First, under the provisions of 47 U.S.C. § 252 (e) (1) the agreement is subject to approval or rejection by this Commission. Therefore, it cannot have any effect until this Commission approves it. Secondly, the agreements themselves bear signature dates of September, October, November or December 1999. On page 2, the second full paragraph, the agreement recites that exhibit A sets the rates for the local transport and termination. To adopt the agreements whether effective on the "effective date" of January 1, 1999, or the signature date of either September or December of 1999, would be to effect retroactive rate making. The public interest is not served when parties enter into agreements that seek to impose rates during a time period in which a valid contract setting those rates does not exist.

It should further be pointed out that the agreement with Ft. Randall Telephone Company, TC00-027, is incomplete and appears to have a copying error. My position is based upon the assumption that a valid contract exists here and that it is the same as the others which were filed.



#### Capitol Office

Telephone (605)773-3201  
FAX (605)773-3809

#### Transportation/ Warehouse Division

Telephone (605)773-5280  
FAX (605)773-3225

#### Consumer Hotline

1-800-332-1782

#### TTY Through Relay South Dakota

1-800-877-1113

#### Internet Website

[www.state.sd.us/puc/](http://www.state.sd.us/puc/)



#### Jim Burg

Chairman

#### Pam Nelson

Vice-Chairman

#### Laska Schoenfelder

Commissioner

William Bullard Jr.  
Executive Director

Harlan Best  
Marin C. Bettmann  
Sue Cichos  
Karen E. Cremer  
Terry Emerson  
Michele M. Farris  
Marlette Fischbach  
Heather K. Fomey  
Shirleen Fugitt  
Mary Giddings  
Lewis Hammond  
Leni Healy  
Mary Healy  
Camron Hoseck  
Lisa Hull  
Dave Jacobson  
Jennifer Kirk  
Bob Knadle  
Delaine Kolbo  
Charlene Lund  
Gregory A. Rislov  
Keith Senger  
Rosalyn Ailts Wiest



William Bullard, Jr.  
March 30, 2000  
Page 2

Accordingly, Staff would make the following recommendation. I would recommend that the agreements be approved in their totality but that there be an effective date as of the date of the order approving them pursuant to 47 U.S.C. § 252 (e) (1).

Please be advised, the standard of care exercised in reviewing these agreements is that, from this point of view, they are entered into by two parties who are amply equipped to look out for their own interests and enter into arms-length transactions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Camron Hoseck", written over a horizontal line.

Camron Hoseck  
Staff Attorney

CH/mrg  
cc: Rich Coit, SDITC  
Gene DeJordy, Western Wireless Corporation

Richard D. Coit  
Executive Director  
rcoit@sd.cybemex.net

April 4, 2000

**RECEIVED**

APR 04 2000

William Bullard, Jr., Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Ave.  
State Capitol Building  
Pierre, SD 57501

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

RE: In the Matter of the Reciprocal Transport and Termination Agreements  
Dockets TC00-020 through TC00-056

Dear Mr. Bullard:

This letter is filed by SDITC on behalf of its member companies as a response to the letter of Staff Attorney Cameron Hoseck filed in this matter, dated March 30, 2000.

Mr. Hoseck first raises as a concern the fact that the Reciprocal Transport and Termination Agreements as filed reference an effective date of January 1, 1999. In response, SDITC notes that this is merely considered the effective date agreed upon between the parties and should not be interpreted to mean that the parties at this time consider the agreements legally effective and binding, prior to PUC approval. The parties understand that these agreements are subject to the Commission review and approval process prescribed under 47 U.S.C. § 252(e).

SDITC does not agree with Mr. Hoseck's claim that the Commission cannot permit the parties to make these agreements effective, upon approval, back to January 1, 1999. The earlier effective date is necessary because for several years no reciprocal compensation agreements have been in place to allow for any compensation between the parties relating to terminated wireless traffic. The earlier date allows for payment of at least a portion of the compensation due for past terminated traffic. It should also be noted that the parties actually commenced the negotiations leading to these filed agreements in the spring of 1998. The parties were unable to resolve all issues until the fall of 1999. These prolonged negotiations also made it necessary to pre-date the agreements.

Mr. Hoseck suggests that if the Commission approves these agreements with the effective date of January 1, 1999, that it will engage itself in retroactive ratemaking. SDITC disagrees. The Commission is charged under 47 U.S.C. § 252(e)(2)(A) with reviewing negotiated agreements only to determine whether they are nondiscriminatory and whether they are consistent with the

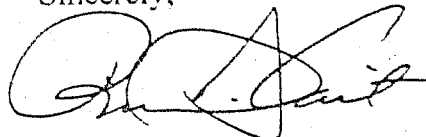


public interest, convenience and necessity. The review process established for state commissions under this section does not rise to the level of an actual ratemaking proceeding and, accordingly, there should be no concerns about retroactive ratemaking. Contrary to what is suggested by Mr. Hoseck, the Commission is under no legal obligation to reject the effective date of January 1, 1999.

The parties have agreed between themselves, for compensation purposes, to consider the agreements effective as of an earlier date than they were signed. Why should the Commission be prevented from honoring this understanding between the parties? SDITC member companies consider the January 1, 1999 effective date to be an important issue and disapproval of such effective date by this Commission will throw the agreements back into the negotiation process. SDITC urges the Commission to accept the effective date established by the parties.

In his letter, Mr. Hoseck also references the agreement filed in Docket TC00-027, involving Ft. Randall Telephone Company, noting that it is incomplete and contains a copying error. To address these concerns, a new copy that is true and correct is enclosed herewith.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Coit", written over a faint, illegible typed name.

Richard D. Coit

Executive Director and General Counsel

cc: Staff Attorney Cameron Hoseck

RDC/ms  
encls.



# South Dakota Public Utilities Commission



State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

April 7, 2000

Mr. William Bullard, Jr.  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol  
Pierre, SD 57501

Re: In the Matter of the Reciprocal Transport  
and Termination Agreements  
Dockets TC00-020 through TC00-056, inclusive

Dear Mr. Bullard:

Please consider this to be Staff's Rebuttal to SDITC's response of April 4, 2000, to the Staff Analysis and Recommendation in these dockets.

SDITC takes the position with regard to the retroactive rate making objection that:

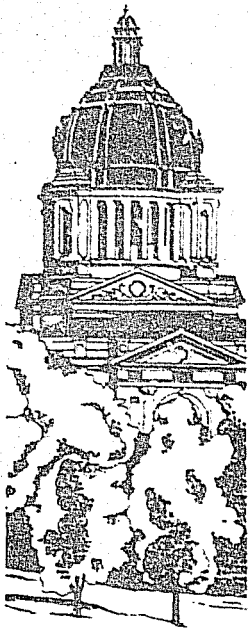
"The earlier date allows for payment of at least a portion of the compensation due for past terminated traffic." (emphasis supplied).

This rationale falls within the classic definition of retroactive rate making:

Generally, retroactive rate making occurs when a utility is permitted to recover an additional charge for past losses, or when a utility is required to refund revenues collected pursuant to its lawfully established rates.

South Central Bell Telephone Company v. Louisiana Public Service Commission, 585 So.2d 1258 (LA 1992) (decision without published opinions) CCH Utilities Law Reports - State ¶ 26, 169.

By approving the agreements, the Commission is permitting the implementation of rates and in that sense is involved in the rate making process. The corollary is that without Commission approval of the agreed-upon rates, they would not be charged.



Capitol Office  
Telephone (605)773-3201  
FAX (605)773-3809

Transportation/  
Warehouse Division  
Telephone (605)773-5280  
FAX (605)773-3225

Consumer Hotline  
1-800-332-1782

TTY Through  
Relay South Dakota  
1-800-877-1113

Internet Website  
[www.state.sd.us/puc/](http://www.state.sd.us/puc/)

♦  
Jim Burg  
Chairman  
Pam Nelson  
Vice-Chairman  
Laska Schoenfelder  
Commissioner

William Bullard Jr.  
Executive Director

Harlan Best  
Martin C. Bettmann  
Sue Cichos  
Karen E. Cremer  
Terry Emerson  
Michele M. Farris  
Marlette Fischbach  
Heather K. Forney  
Shirleen Fugitt  
Mary Giddings  
Lewis Hammond  
Leni Healy  
Mary Healy  
Cameron Hoseck  
Lisa Hull  
Dave Jacobson  
Jennifer Kirk  
Bob Knadle  
Delaine Kolbo  
Charlene Lund  
Gregory A. Rislov  
Keith Senger  
Rosalynne Ailts Wiest  
♦

Retroactive rate making is not consistent with the public interest. It can reflect takings, arbitrary and capricious acts, discrimination and a frustration of the basic notice requirements of due process of law.

Staff adheres to its position in this matter and its suggested effective date for the agreement and all that it entails.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Camron Hoseck".

Camron Hoseck  
Staff Attorney

CH:dk

cc: Mr. Richard D. Coit  
Mr. Gene DeJordy

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILING BY SOUTH )  
DAKOTA INDEPENDENT TELEPHONE )  
COALITION FOR APPROVAL OF A )  
RECIPROCAL TRANSPORT AND )  
TERMINATION AGREEMENT BETWEEN G.C.C )  
LICENSE L.L.C. AND ARMOUR INDEPENDENT )  
TELEPHONE COMPANY )

ORDER APPROVING  
AGREEMENT

TC00-021

On March 2, 2000, the South Dakota Independent Telephone Coalition on behalf of Armour Independent Telephone Company (Armour) filed for approval by the South Dakota Public Utilities Commission (Commission) a reciprocal transport and termination agreement between G C C License L.L.C. (GCC) and Armour. The agreement had an effective date of January 1, 1999.

On March 9, 2000, the Commission electronically transmitted notice of this filing to interested individuals and entities. The notice stated that any person wishing to intervene had until March 24, 2000, to do so. No intervention was sought. Commission Staff filed comments.

At its duly noticed May 17, 2000, meeting, the Commission considered whether to approve the agreement between GCC and Armour. Commission Staff recommended approval with an effective date as of the date of an Order approving the agreement.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, and the Federal Telecommunications Act of 1996. In accordance with 47 U.S.C. § 252(e)(2), the Commission found that the agreement does not discriminate against a telecommunications carrier that is not a party to the agreement and the agreement is consistent with the public interest, convenience, and necessity. The Commission unanimously voted to approve the agreement with an effective date as of the date of this Order. It is therefore

ORDERED, that the Commission approves the agreement effective as of the date of this Order.

Dated at Pierre, South Dakota, this 23<sup>rd</sup> day of May, 2000.

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, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By Melaine Kolbe

Date 5/25/00

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg  
JAMES A. BURG, Chairman

Pam Nelson  
PAM NELSON, Commissioner

Laska Schoenfelder  
LASKA SCHOENFELDER, Commissioner