

TC00-190

State of South Dakota

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Contents: 11-22-00 to

(Inclusive Dates/Alphabetic number)

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1-8-03

Date Microfilmed

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Exposures: _____

Michelle Langmore

Camera Operator Signature

In the Matter of

IN THE MATTER OF THE FILING BY
BLACK HILLS FIBERCOM, LLC, FOR
APPROVAL OF ITS INTRASTATE
SWITCHED ACCESS TARIFF AND FOR
AN EXEMPTION FROM DEVELOPING
COMPANY SPECIFIC COST-BASED
SWITCHED ACCESS RATES

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
11/23/00	Filed and Docketed;
11/23/00	Weekly Filing
12/1/00	Revised Tariff Pages;
12/6/00	Quest's Petition for Leave to Intervene;
12/20/00	Order Granting Intervention;
2/5/01	Order for and Notice of Hearing;
4/16/01	Petition for Continuance;
4/17/01	Order Cancelling Hearing;
8/28/01	Second Order for and Notice of Hearing;
9/28/01	Order Cancelling Hearing;
9/28/01	Revised Tariff Pages;
10/1/01	Stipulation and Agreement to Settle Docket No. TC00-190.
10/18/01	Order Granting Petition for Leave and Approving Stipulation and Agreement.
10/18/01	Docket Closed.

November 21, 2000

Page 2 of 2

situated CLEC's such as the Commission's action on Fiber Comm's Intrastate Access Tariff in Docket TC99-031, Northern Valley Communications's Intrastate Switched Access Tariff in Docket TC99-092, and Midcontinent Communication's Intrastate Switched Access Tariff in Docket TC00-135 (approved October 17, 2000), wherein the Commission granted very similar requests to BHFC's.

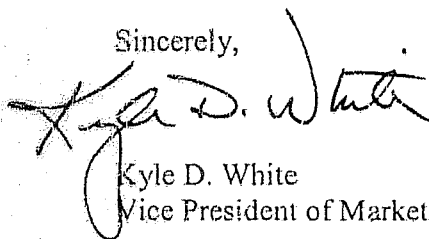
BHFC's concurrence in the rates, terms and conditions (with the exceptions noted above) of the current LECA Tariff No. 1 is also based on the fact that IXC's and other LEC's operating in the state should be very familiar with it. LECA Tariff No. 1 has already been used by the vast majority of local exchange carriers in the state for many years.

BHFC respectfully requests that the Commission approve this petition for exemption from the development of company specific cost-based switched access rates consistent with ARSD 20:10:27:11 and that the Commission approve BHFC's Tariff No. 1 as filed herein, which contains switched access rates that are consistent with ARSD 20:10:27:12.

If you have any questions, please contact me at (605) 721-2000 or Larry Hettinger of Martin and Associates, Inc. at (605) 995-1546.

Thank you in advance for your consideration of this request.

Sincerely,



Kyle D. White
Vice President of Marketing and Regulatory Affairs

enclosure:

cc: Larry Hettinger, Martin and Associates, Inc.

SOUTH DAKOTA SWITCHED ACCESS SERVICES

A. CONCURRENCE IN RATES, TERMS AND CONDITIONS OF LOCAL EXCHANGE
CARRIER ASSOCIATION, INC. TARIFF NO. 1

1. Black Hills FiberCom, LLC concurs in the rates, terms and conditions, except as noted below, of Local Exchange Carrier Association, Inc. Tariff No. 1 governing Intrastate Access Service as filed by the Local Exchange Carrier Association, Inc. in the State of South Dakota. Black Hills FiberCom, LLC concurs in the current Local Exchange Carrier Association, Inc. Tariff No. 1 as of November 22, 2000 as shown by the attached TARIFF CHECKLIST pages. The only exceptions to this concurrence are the attached pages 17-1 and 17-4, which replace the current Local Exchange Carrier Association, Inc. Tariff No. 1 pages 17-1 and 17-4.
2. Black Hills FiberCom, LLC hereby expressly reserves the right to cancel or void this statement of concurrence at any time consistent with state law and the best interests of Black Hills FiberCom, LLC by filing a replacement tariff with the South Dakota Public Utilities Commission.

Issued: November 21, 2000

By: Vice President of Regulatory Affairs
PO Box 2115
Rapid City, SD 57709

Effective: November 22, 2000

TARIFF CHECKLIST
All Pages Are Original Unless Otherwise Noted

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* New This Issue

Issued: January 6, 2000

By: Dean Anderson
President
P.O. Box 920
Clear Lake, SD 57226

Effective: January 15, 2000

TARIFF CHECKLIST
All Pages Are Original Unless Otherwise Noted

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* New This Issue

Issued: November 30, 1998

Effective: January 1, 1999

By: Dean Anderson
President
P.O. Box 920
Clear Lake, SD 57226

TARIFF CHECKLIST

All Pages Are Original Unless Otherwise Noted

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* New This Issue

Issued: August 28, 2000

Effective: August 18, 2000

By: Dean Anderson
 President
 P.O. Box 920
 Clear Lake, SD 57226

SOUTH DAKOTA SWITCHED ACCESS SERVICES

17. Rates and Charges

17.1 Common Line Access Service

17.1.1 Carrier Common Line Access Service

Rate

Regulations concerning Carrier Common Line Access
are set forth in Section 3. Preceding.

Per Access Minute

\$0.0364

17.1.2 Reserved for Future Use

Issued: November 21, 2000

By: Vice President of Regulatory Affairs
PO Box 2115
Rapid City, SD 57709

Effective: November 22, 2000

SOUTH DAKOTA SWITCHED ACCESS SERVICES

17. Rates and Charges (Cont'd)

17.2 Switched Access Service

17.2.1 Nonrecurring Charges

Rate

(A) Local Transport Element -
Installation Per Line or Trunk

\$295.00

(B) Reserved for Future Use

(C) Interim NXX Translation Per Order

\$181.00

Per LATA or Market Area

17.2.2 Traffic Sensitive

Local Switching (End Office)

Per Access Minute

\$0.0210

Local Transport

Per Access Minute

\$0.0330

Network Blocking Per Blocked Call

Applies to FGD only

\$0.0271

8XX Data Base Query Service

Per Query

Basic

\$0.0070

Vertical Feature

\$0.0082

South Dakota Public Utilities Commission
WEEKLY FILINGS

For the Period of November 16, 2000 through November 22, 2000

if you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five business days of this filing
Phone: 605-773-3705 Fax: 605-773-3809

TELECOMMUNICATIONS

TC00-185 In the Matter of the Filing for Approval of a First Amendment to an Interconnection Agreement between Qwest Corporation and NewPath Holdings, Inc.

An Amendment No. 1 to the interconnection Agreement between NewPath Holdings, Inc. and Qwest Corporation (Qwest) was filed with the Commission for approval. The agreement is a negotiated agreement with the parties adopting the previously negotiated interconnection agreement between NewPath Holdings, Inc. and Qwest approved by the Commission effective August 16, 2000 in Docket TC00-099.* Amendment No. 1 replaces existing UNE and OSS language, including OSS terms conditions and rates. Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than December 11, 2000. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

* The application indicates that TC00-099 was an "arbitrated interconnection agreement" but records indicate it too was a negotiated agreement.

Staff Attorney: Kelly Frazier
Date Docketed: 11/21/00
Initial Comments Due: 12/11/00

TC00-186 In the Matter of the Filing for Approval of Second and Third Amendments to an Interconnection Agreement between Qwest Corporation and New Edge Network, Inc. d/b/a New Edge Networks.

Amendments Nos. 2 and 3 to the Interconnection Agreement between New Edge Network, Inc. and Qwest Corporation (Qwest) were filed with the Commission for approval. The agreements are negotiated agreements with the parties adopting the previously negotiated interconnection agreement between New Edge Network, Inc. and Qwest approved by the Commission effective January 12, 2000 in Docket TC99-109.* Amendment No. 2 adds terms

conditions and rates for IDSL and DS3 Capable Loops. Amendment No. 3 revises the existing intervals for collocation augments, extends additional access to loop qualification data, adds language regarding processes and intervals for unbundled loop order provisioning, adds a self-executing service performance program and adds language regarding the ordering and provisioning of collocation and UNE facilities. Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than December 11, 2000. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

* The application indicates that TC99-109 was an "arbitrated interconnection agreement" but records indicate it too was a negotiated agreement.

Staff Attorney: Kelly Frazier
Date Docketed: 11/21/00
Initial Comments Due: 12/11/00

TC00-187 In the Matter of the Filing for Approval of a Second Amendment to an Interconnection Agreement between Qwest Corporation and AT&T Communications of the Midwest, Inc.

An Amendment No. 2 to the Interconnection Agreement between AT&T Communications of the Midwest, Inc. (AT&T) and Qwest Corporation (Qwest) was filed with the Commission for approval. The agreement is a negotiated agreement with the parties adopting the arbitrated interconnection agreement between AT&T and Qwest approved by the Commission in Docket TC96-184. Amendment No. 2 adds terms, conditions and rates for Local Number Portability Managed Cuts. Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than December 11, 2000. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier
Date Docketed: 11/21/00
Initial Comments Due: 12/11/00

TC00-188 In the Matter of the Application of Encompass Communications, L.L.C. for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota.

Encompass Communications, L.L.C. has filed a request for a Certificate of Authority to provide resold telecommunications services throughout South Dakota. Encompass Communications intends to offer interexchange services

including 1+ and 101XXXX outbound dialing, 800/888 toll-free inbound dialing, directory assistance, data services, travel card service, and prepaid calling card service.

Staff Analyst: Michele Farris
Staff Attorney: Kelly Frazier
Date Docketed: 11/21/00
Intervention Deadline: 12/08/00

TC00-189 In the Matter of the Application of Claricom Networks, Inc. d/b/a Staples Communications-Networks for a Certificate of Authority to Provide Local Exchange Services in South Dakota.

Claricom Networks, Inc. d/b/a Staples Communications-Networks is seeking a Certificate of Authority to provide local exchange telecommunication services in South Dakota. The applicant intends to resell Qwest Corporation services primarily to business customers.

Staff Analyst: Keith Senger
Staff Attorney: Kelly Frazier
Date Docketed: 11/21/00
Intervention Deadline: 12/08/00

TC00-190 In the Matter of the Filing by Black Hills FiberCom, LLC for Approval of its Intrastate Switched Access Tariff and for an Exemption from Developing Company Specific Cost-Based Switched Access Rates.

Black Hills FiberCom filed an application with the Commission for approval of its Intrastate Switched Access Tariff No. 1. The tariff filing is a concurrence in the rates, terms and conditions of the current LECA Tariff No. 1, with the exception of the switched access rates which are based on a statewide average. The company is also requesting that the Commission exempt it from the requirement to develop intrastate switched access rates based on company specific costs. The company is requesting an effective date of November 22, 2000.

Staff Analyst: Heather Forney
Staff Attorney: Kelly Frazier
Date Docketed: 11/22/00
Intervention Deadline: 12/08/00

TC00-191 In the Matter of the Filing by Qwest Corporation for Approval of its Statement of Generally Available Terms.

Qwest Corporation (Qwest) filed with the Commission a Statement of Generally Available Terms and Conditions (SGAT) and a Compliance Filing Modifying Qwest's SGAT to Adopt Collocation Provision Intervals Set by the FCC (Compliance Filing). In its SGAT filing, Qwest states that it is requesting that the Commission open a docket for review of the SGAT; that it has triggered the 60-day review period under Section 252(f)(3) of the Telecommunications Act of 1996 (Act); and that it provides Qwest's model contract offering that will frame discussions for the Act's 271 process. In its Compliance Filing, Qwest requests that the Commission issue an Order allowing section 8.4 of the SGAT to be amended consistent with the intervals set forth by the FCC.

Commission Contact: Bill Bullard

Date Docketed: 11/22/00

Intervention Deadline: 12/08/00

You may receive this listing and other PUC publications via our website or via internet e-mail.
You may subscribe or unsubscribe to the PUC mailing lists at <http://www.state.sd.us/puc/>



Black Hills FiberCom

No One Else Has Our Connection

P.O. Box 2115 • 809 Deadwood Avenue • Rapid City, SD 57709

ph. (605) 721-2000 • fax (605) 342-1693

www.blackhillsfiber.com

November 30, 2000

Ms. Heather K. Forney, Utility Analyst
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, SD 57501-5070

RE: TC00-190 – In the Matter of the Filing by Black Hills FiberCom, LLC for Approval of its
Intrastate Switched Access Tariff and for an Exemption from Developing Company Specific Cost-
Based Switched Access Rates.

Dear Ms. Forney:

As per your letter dated November 27, enclosed please find the updated tariff pages E-1 and E-4 with the
Effective Date left blank. Should you have any questions or concerns, please do not hesitate to call me.

Yours truly,

Kyle D. White
Vice President of Marketing and Regulatory Affairs

Enclosures

cc: Larry Hettinger, Martin and Associates, Inc.
Jim Feehan, Black Hills FiberCom

RECEIVED

NOV 30 2000

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

SOUTH DAKOTA SWITCHED ACCESS SERVICES

A. CONCURRENCE IN RATES, TERMS AND CONDITIONS OF LOCAL EXCHANGE
CARRIER ASSOCIATION, INC. TARIFF NO. 1

1. Black Hills FiberCom, LLC concurs in the rates, terms and conditions, except as noted below, of Local Exchange Carrier Association, Inc. Tariff No. 1 governing Intrastate Access Service as filed by the Local Exchange Carrier Association, Inc. in the State of South Dakota. Black Hills FiberCom, LLC concurs in the current Local Exchange Carrier Association, Inc. Tariff No. 1 as of November 22, 2000 as shown by the attached TARIFF CHECKLIST pages. The only exceptions to this concurrence are the attached pages 17-1 and 17-4, which replace the current Local Exchange Carrier Association, Inc. Tariff No. 1 pages 17-1 and 17-4.
2. Black Hills FiberCom, LLC hereby expressly reserves the right to cancel or void this statement of concurrence at any time consistent with state law and the best interests of Black Hills FiberCom, LLC by filing a replacement tariff with the South Dakota Public Utilities Commission.

Issued: November 21, 2000

By: Vice President of Regulatory Affairs
PO Box 2115
Rapid City, SD 57709

Effective:

SOUTH DAKOTA SWITCHED ACCESS SERVICES

17. Rates and Charges

17.1 Common Line Access Service

17.1.1 Carrier Common Line Access Service

Rate

Regulations concerning Carrier Common Line Access
are set forth in Section 3. Preceding.

Per Access Minute

\$0.0364

17.1.2 Reserved for Future Use

Issued: November 21, 2000

Effective:

By: Vice President of Regulatory Affairs
PO Box 2115
Rapid City, SD 57709

SOUTH DAKOTA SWITCHED ACCESS SERVICES

17. Rates and Charges (Cont'd)

17.2 Switched Access Service

17.2.1 Nonrecurring Charges

Rate

(A) Local Transport Element -
Installation Per Line or Trunk

\$295.00

(B) Reserved for Future Use

(C) Interim NXX Translation Per Order

\$181.00

Per LATA or Market Area

17.2.2 Traffic Sensitive

Local Switching (End Office)

Per Access Minute

\$0.0210

Local Transport

Per Access Minute

\$0.0330

Network Blocking Per Blocked Call

Applies to FGD only

\$0.0271

8XX Data Base Query Service

Per Query

Basic

\$0.0179

Vertical Feature

\$0.0082

Issued: November 21, 2000

Effective:

By: Vice President of Regulatory Affairs
PO Box 2115
Rapid City, SD 57709

BOYCE, MURPHY, McDOWELL & GREENFIELD, L.L.P.
ATTORNEYS AT LAW

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Russell R. Greenfield
David J. Vickers
Gary J. Pashby
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Thomas J. Welk
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James L. McMahon
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Sioux Falls, South Dakota 57117-5015

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Jeffrey C. Clapper

Of Counsel
John R. McDowell

J.W. Boyce (1884-1953)
John S. Murphy (1914-1986)

December 4, 2000

William Bullard, Executive Director
Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, SD 57501

Re: Black Hills FiberCom, L.L.C. ("BHFC") Intrastate Switched Access Tariff and Request for
Exemption from Development of Company Specific Cost Based Rates (TC00-190)
Our File No. 2104.079

Dear Bill:

Enclosed please find for filing the original and ten (10) copies of Qwest Corporation's Petition for
Leave to Intervene and Certificate of Service.

Sincerely yours,

BOYCE, MURPHY, MCDOWELL
& GREENFIELD, L.L.P.



Thomas J. Welk

TJW/vjj

Enclosure

cc: Kyle D. White
Colleen Sevold
Jon Lehner

RECEIVED

DEC 06 2000

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

BLACK HILLS FIBERCOM, LLC. ("BHFC")
INTRASTATE SWITCHED ACCESS TARIFF
AND REQUEST FOR EXEMPTION FROM
DEVELOPMENT OF COMPANY SPECIFIC
COST BASED RATES

TC00-190

QWEST CORPORATION'S PETITION
FOR LEAVE TO INTERVENE

Qwest Corporation, formerly U S WEST Communications, Inc., ("Qwest"), by and through its undersigned counsel, and pursuant to SDCL 1-26-17.1 and ARSD 20:10:01:15.02, hereby files its Petition for Leave to Intervene in this docket. In support of its Petition for Leave to Intervene, Qwest states as follows:

1. Qwest is a Colorado corporation duly authorized to do business in South Dakota, with its general offices in Denver, Colorado. It is a telecommunications company as defined by SDCL §49-31-1(26) authorized by the Commission to provide telecommunications services within its certified service territory in South Dakota.

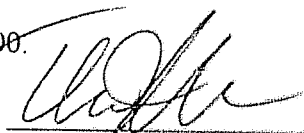
2. Qwest will purchase switched access services from BHFC in an amount which is estimated to exceed \$100,000 annually, and therefore has a direct and immediate pecuniary interest in the Commission's decision in this docket.

3. Qwest's position in this docket is to determine that BHFC's switched rates are determined in accordance with the facts and applicable law.

4. Qwest will be represented in this proceeding by the counsel listed below.

WHEREFORE, Qwest respectfully requests that its Petition for Leave to Intervene be granted.

DATED this 4th day of December, 2000.



Thomas J. Welk
Boyce, Murphy, McDowell & Greenfield, L.L.P.
Norwest Center, Suite 600
101 N. Phillips Ave.
Sioux Falls, SD 571 17-50 15
Telephone: 605-336-2424
Attorneys for Qwest Corporation

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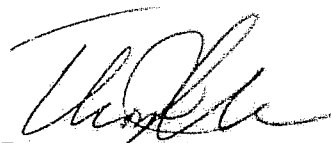
DEC 6 2000

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

CERTIFICATE OF SERVICE

I, Thomas J. Welk, do hereby certify that I am a member of the law firm of Boyce, Murphy, McDowell & Greenfield, L.L.P. and on the 4th day of December, 2000, a true and correct copy of Qwest Corporation's Petition for Leave to Intervene was sent to the following by U S first class mail, postage prepaid, at the following address:

Kyle D. White
Vice. Pres. of Marketing & Regulatory Affairs
Black Hills FiberCom
P.O. Box 2115
Rapid City, SD 57709



Thomas J. Welk

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

IN THE MATTER OF THE FILING BY BLACK)
HILLS FIBERCOM, LLC FOR APPROVAL OF)
ITS INTRASTATE SWITCHED ACCESS TARIFF)
AND FOR AN EXEMPTION FROM)
DEVELOPING COMPANY SPECIFIC COST-)
BASED SWITCHED ACCESS RATES)

**ORDER GRANTING
INTERVENTION**

TC00-190

On November 22, 2000, the Public Utilities Commission (Commission) received a filing from Black Hills FiberCom, LLC for approval of its intrastate switched access tariff and for an exemption from developing company specific cost-based switched access rates. The tariff filing is a concurrence in the rates, terms and conditions of the current LECA Tariff No. 1, with the exception of the switched access rates which are based on a statewide average. The company is also requesting that the Commission exempt it from the requirement to develop intrastate switched access rates based on company specific costs. The company is requesting an effective date of November 22, 2000.

On November 23, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of December 8, 2000, to interested individuals and entities. Qwest Corporation (Qwest) filed a Petition for Leave to Intervene on December 6, 2000.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31 and ARSD 20:10:01:15.05.

At a regularly scheduled meeting of December 12, 2000, the Commission found that the Petition for Leave to Intervene was timely filed and demonstrated good cause to grant intervention. It is therefore

ORDERED, that the Petition for Leave to Intervene of Qwest is hereby granted.

Dated at Pierre, South Dakota, this 20th day of December, 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 Kelso

Date: 12/21/00

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:


JAMES A. BURG, Chairman


PAM NELSON, Commissioner


LASKA SCHOENFELDER, Commissioner

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

IN THE MATTER OF THE FILING BY BLACK)	ORDER FOR AND NOTICE
HILLS FIBERCOM, LLC FOR APPROVAL OF)	OF HEARING
ITS INTRASTATE SWITCHED ACCESS TARIFF)	
AND FOR AN EXEMPTION FROM)	TCG0-190
DEVELOPING COMPANY SPECIFIC COST-)	
BASED SWITCHED ACCESS RATES)	

On November 22, 2000, the Public Utilities Commission (Commission) received a filing from Black Hills FiberCom, LLC for approval of its intrastate switched access tariff and for an exemption from developing company specific cost-based switched access rates. The tariff filing is a concurrence in the rates, terms and conditions of the current LECA Tariff No. 1, with the exception of the switched access rates which are based on a statewide average. The company is also requesting that the Commission exempt it from the requirement to develop intrastate switched access rates based on company specific costs. The company is requesting an effective date of November 22, 2000.

On November 23, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of December 8, 2000, to interested individuals and entities. Qwest Corporation (Qwest) filed a Petition for Leave to Intervene on December 6, 2000. At its regularly scheduled meeting of December 12, 2000, the Commission granted intervention to Qwest.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 49-31, specifically 49-31-18 and 49-31-19 and ARSD Chapters 20:10:27 through 20:10:29, inclusive.

A hearing shall be held on January 18, 2001, beginning at 8:30 A.M., in the Chamber of Commerce Meeting Room, 800 West Dakota, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether the Commission will approve Black Hills Fibercom's intrastate switched access tariff and grant it an exemption from developing company specific cost-based switched access rates.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact,

Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether to approve Black Hills Fibercom's intrastate switched access tariff and grant it an exemption from developing company specific cost-based switched access rates. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that a hearing shall be held at the time and place specified above on the issue of whether to approve Black Hills Fibercom's intrastate switched access tariff and grant it an exemption from developing company specific cost-based switched access rates.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 5th day of January, 2001.

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

Date

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

LAW OFFICES
MORRILL THOMAS NOONEY & BRAUN, LLP
625 NINTH STREET - 8TH FLOOR
P.O. Box 8108
RAPID CITY, SOUTH DAKOTA 57709-8108
TELEPHONE (605) 348-7516
FAX (605) 348-5852

TIMOTHY L. THOMAS*
JOHN H. NOONEY*
LONNIE R. BRAUN
EURT Z. SOLAY
PENNY TIBKE PLATNICK*
GREGORY J. BERNARD
KEAN J. TAYLOR*

*ALSO LICENSED IN WYOMING
*ALSO LICENSED IN MINNESOTA
*ALSO CERTIFIED PUBLIC ACCOUNTANT

OF COUNSEL
DAVID E. MORRILL

January 16, 2001

[e-mail: gjbarnard@mtnlaw.com]

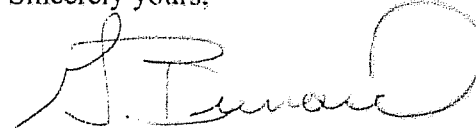
Via Facsimile & U.S. Mail
William Bullard, Executive Director
Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, SD 57501

Re: Black Hills FiberCom, L.L.C. ("BHFC") Intrastate Switched Access Tariff and
Request for Exemption from Development of Company Specific Cost Based
Rates (TC00-190)
Our File No.: BH-1319

Dear Mr. Bullard:

Please find enclosed FiberCom's Motion For Continuance and Affidavit of Counsel in support thereof. If you have any questions whatsoever, please don't hesitate to contact me.

Sincerely yours,



Gregory J. Bernard

GJB/mkt
Enclosures

cc: Thomas J. Welk, Esq. (w/enc) *Via Facsimile & U.S. Mail*

FAX Received JAN 16 2001

RECEIVED

JAN 17 2001

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA


BLACK HILLS FIBERCOM, L.L.C.
("BHFC") INTRASTATE SWITCHED
ACCESS TARIFF AND REQUEST FOR
EXEMPTION FROM DEVELOPMENT OF
COMPANY SPECIFIC COST BASED
RATES

TC00-190

MOTION FOR CONTINUANCE

Black Hills FiberCom, L.L.C., through undersigned counsel, hereby moves the commission for its order granting a continuance of the January 18, 2001 scheduled hearing on FiberCom's request for exemption from development of company-specific cost-based switched access rates, and application of approval of its intrastate switched access tariff No. 1 (Docket No. TC 00-190). FiberCom requests a continuance of at least 21 days or as soon thereafter as is convenient for the Commission and all interested parties. This motion is supported by an accompanying Affidavit of Counsel.

Dated this 16 day of January, 2001.


Gregory J. Bernard
MORRILL THOMAS NOONEY & BRAUN, LLP
Attorneys for Black Hills FiberCom, L.L.C.
625 9th Street, 8th Floor
PO Box 8108
Rapid City, SD 57709-8108
(605) 348-7516

FAX Received JAN 16 2001

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JAN 17 2001

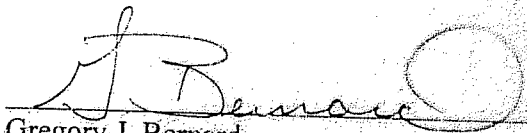
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

CERTIFICATE OF SERVICE

I, Gregory J. Bernard, attorney for Black Hills FiberCom, L.L.C., hereby certify that a true and correct copy of the within and foregoing Motion for Continuance was faxed and mailed via first class mail from Rapid City, South Dakota thereon, to:

Thomas J. Welk, Esq.
Boyce, Murphy, McDowell & Greenfield
P. O. Box 5015
Sioux Falls, SD 57117-5015

this 16 day of January, 2001.


Gregory J. Bernard
Attorneys for Black Hills FiberCom, L.L.C.
MORRILL THOMAS NOONEY & BRAUN, LLP
625 9th Street, 8th floor
P. O. Box 8108
Rapid City, SD 57709-8108
(605) 348-7516

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

BLACK HILLS FIBERCOM, L.L.C.
("BHFC") INTRASTATE SWITCHED
ACCESS TARIFF AND REQUEST FOR
EXEMPTION FROM DEVELOPMENT OF
COMPANY SPECIFIC COST BASED
RATES

TC00-190

AFFIDAVIT OF COUNSEL

STATE OF SOUTH DAKOTA)
) SS.
COUNTY OF PENNINGTON)

GREGORY J. BERNARD, being first duly sworn on oath, hereby deposes and states
that:

1. I am the attorney of record representing Black Hills FiberCom, L.L.C. in the above-entitled matter.
2. Currently pending before the Commission is FiberCom's request for exemption from development of company-specific cost-based switched access rates, and application of approval of its intrastate switched access tariff No. 1.
3. By order of the Commission, QWEST Corporation was granted leave to intervene in this docket to protect its interests affected by the Commission's disposition of FiberCom's application for tariff approval.
4. Since the Commission's grant of QWEST's Motion to Intervene, FiberCom and QWEST have been engaged in substantive discussions/negotiations regarding an agreement between them which will facilitate settlement and closure of this docket without the need for formal litigation before the Commission.

FAX Received JAN 16 2001


RECEIVED

JAN 17 2001

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION


5. Although the parties are close to finalizing their agreement, there is not sufficient time to complete the final details before the January 18, 2001 hearing.
6. Once the agreement is finalized, it will be presented to the Commission for approval along with an Amended Application for Tariff Approval by FiberCom.
7. It is in the public's best interest and in the best interest of expediency and economy to continue this matter until FiberCom and QWEST have finalized an agreement for presentation to the Commission.
8. I am authorized to state on behalf of QWEST Corporation that QWEST Corporation has no objection to FiberCom's Motion for Continuance.
9. FiberCom's Motion for Continuance is made in good faith.

Dated this 16 day of January, 2001.


GREGORY J. BERNARD
Attorneys for Black Hills FiberCom, L.L.C.
MORRILL THOMAS NOONEY & BRAUN, LLP
625 9th Street, 8th floor
P. O. Box 8108
Rapid City, SD 57709-8108
(605) 348-7516

Subscribed and sworn before Mary Thomsen, notary public, this 16th day of January, 2001.

(SEAL)


Mary Thomsen, Notary Public
My Commission Expires: 5-16-05

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

IN THE MATTER OF THE FILING BY BLACK)	ORDER CANCELLING
HILLS FIBERCOM, LLC FOR APPROVAL OF)	HEARING
ITS INTRASTATE SWITCHED ACCESS TARIFF)	
AND FOR AN EXEMPTION FROM)	TC00-190
DEVELOPING COMPANY SPECIFIC COST-)	
BASED SWITCHED ACCESS RATES)	

On November 22, 2000, the Public Utilities Commission (Commission) received a filing from Black Hills FiberCom, LLC for approval of its intrastate switched access tariff and for an exemption from developing company specific cost-based switched access rates. The tariff filing is a concurrence in the rates, terms and conditions of the current LECA Tariff No. 1, with the exception of the switched access rates which are based on a statewide average. The company is also requesting that the Commission exempt it from the requirement to develop intrastate switched access rates based on company specific costs. The company is requesting an effective date of November 22, 2000.

On November 23, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of December 8, 2000, to interested individuals and entities. Qwest Corporation (Qwest) filed a Petition for Leave to Intervene on December 6, 2000. At its regularly scheduled meeting of December 12, 2000, the Commission granted intervention to Qwest.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 49-31, specifically 49-31-18 and 49-31-19 and ARSD Chapters 20:10:27 through 20:10:29, inclusive.

By order dated January 5, 2001, a hearing was scheduled for January 18, 2001, beginning at 8:30 A.M., in the Chamber of Commerce Meeting Room, 800 West Dakota, Pierre, South Dakota. On January 16, 2001, the Commission received a Motion for Continuance from Black Hills FiberCom, LLC, so therefore the hearing is cancelled. Qwest did not object. It is therefore

ORDERED, that the hearing scheduled for January 18, 2001, is cancelled and a new hearing shall be set at a later time.

Dated at Pierre, South Dakota, this 17th day of January, 2001.

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: Aldine Kelbo

Date: 1/17/01

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAIM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

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

IN THE MATTER OF THE FILING BY BLACK)	SECOND ORDER FOR AND
HILLS FIBERCOM, LLC FOR APPROVAL OF)	NOTICE OF HEARING
ITS INTRASTATE SWITCHED ACCESS TARIFF)	
AND FOR AN EXEMPTION FROM)	TC00-190
DEVELOPING COMPANY SPECIFIC COST-)	
BASED SWITCHED ACCESS RATES)	

On November 22, 2000, the Public Utilities Commission (Commission) received a filing from Black Hills FiberCom, LLC for approval of its intrastate switched access tariff and for an exemption from developing company specific cost-based switched access rates. The tariff filing is a concurrence in the rates, terms and conditions of the current LECA Tariff No. 1, with the exception of the switched access rates which are based on a statewide average. The company is also requesting that the Commission exempt it from the requirement to develop intrastate switched access rates based on company specific costs. The company is requesting an effective date of November 22, 2000.

On November 23, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of December 8, 2000, to interested individuals and entities. Qwest Corporation (Qwest) filed a Petition for Leave to Intervene on December 6, 2000. At its regularly scheduled meeting of December 12, 2000, the Commission granted intervention to Qwest. On January 16, 2001, the Commission received a Motion for Continuance and Affidavit of Counsel from Black Hills FiberCom.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 49-31, specifically 49-31-18 and 49-31-19 and ARSD Chapters 20:10:27 through 20:10:29, inclusive.

A hearing shall be held on October 4, 2001, beginning at 8:30 A.M., in Room 412 of the State Capitol Building, 500 E. Capitol, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether the Commission will approve Black Hills FiberCom's intrastate switched access tariff and grant it an exemption from developing company specific cost-based switched access rates.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that

was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether to approve Black Hills FiberCom's intrastate switched access tariff and grant it an exemption from developing company specific cost-based switched access rates. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that a hearing shall be held at the time and place specified above on the issue of whether to approve Black Hills FiberCom's intrastate switched access tariff and grant it an exemption from developing company specific cost-based switched access rates.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 28th day of August, 2001.

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:	<u>Alaine Keeko</u>
Date:	<u>8/28/01</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

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

IN THE MATTER OF THE FILING BY BLACK)	ORDER CANCELLING
HILLS FIBERCOM, LLC FOR APPROVAL OF)	HEARING
ITS INTRASTATE SWITCHED ACCESS TARIFF)	
AND FOR AN EXEMPTION FROM)	TC00-190
DEVELOPING COMPANY SPECIFIC COST-)	
BASED SWITCHED ACCESS RATES)	

On November 22, 2000, the Public Utilities Commission (Commission) received a filing from Black Hills FiberCom, LLC for approval of its intrastate switched access tariff and for an exemption from developing company specific cost-based switched access rates. The tariff filing is a concurrence in the rates, terms and conditions of the current LECA Tariff No. 1, with the exception of the switched access rates which are based on a statewide average. The company is also requesting that the Commission exempt it from the requirement to develop intrastate switched access rates based on company specific costs. The company is requesting an effective date of November 22, 2000.

On November 23, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of December 8, 2000, to interested individuals and entities. Qwest Corporation (Qwest) filed a Petition for Leave to Intervene on December 6, 2000. At its regularly scheduled meeting of December 12, 2000, the Commission granted intervention to Qwest. On January 16, 2001, the Commission received a Motion for Continuance and Affidavit of Counsel from Black Hills FiberCom.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 49-31, specifically 49-31-18 and 49-31-19 and ARSD Chapters 20:10:27 through 20:10:29, inclusive.

By order dated August 28, 2001, a hearing was scheduled for October 4, 2001, beginning at 8:30 A.M., in Room 412 of the State Capitol Building, 500 E. Capitol, Pierre, South Dakota. Commission Staff has now been informed that settlement had been reached in this matter, so therefore the hearing is cancelled. It is therefore

ORDERED, that the hearing scheduled for October 4, 2001, is cancelled.

Dated at Pierre, South Dakota, this 28th day of September, 2001.

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: <u><i>Shirley Jacobs</i></u>
Date: <u>9/28/01</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner



Black Hills Corporation

Kyle D. White

Vice President

Corporate Affairs

E-mail: kwhite@bh-corp.com

September 28, 2001

625 Ninth Street • P.O. Box 1400

Rapid City, SD 57709-1400

P (605) 721-2313

F (605) 721-2539

Ms. Debra Elofson
Executive Director
Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, SD 57501

RECEIVED

OCT 11 2001

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Re: Black Hills FiberCom, L.L.C. ("BHFC") Intrastate Switched Access Tariff and Request for Exemption from Development of Company Specific Cost Based Rates (TC00-190)

Dear Ms. Elofson:

Please find enclosed BHFC's revised proposed Intrastate Switched Access Tariff No. 1 submitted for the Commission's approval consistent with SDCL 49-31-19. I have also enclosed ten (10) copies of this letter which is to serve as BHFC's revised request for exemption from the requirement of cost-based rates, request for tariff approval and request for limited waiver of the provisions of ARSD 20:10:27:12. BHFC's tariff filing herein is a concurrence with the rates, terms and conditions of the LECA Tariff No. 1 as of November 22, 2000, with the exception of the switched access rates contained in pages 17-1 and 17-4, which are based on Qwest's tariffed switched access rates approved by the Commission.

As you know, BHFC filed its original proposed Intrastate Switched Access Tariff in November 2000. In that filing, BHFC requested an exemption pursuant to ARSD 20:10:27:11 from the requirement that BHFC develop intrastate switched access rates based on company-specific costs. BHFC also requested that the Commission allow it to concur with the LECA Tariff No. 1 and that the switched rates be based on a state-wide average pursuant to ARSD 20:10:27:12. As you also know, Qwest intervened and objected to the approval of the state-wide average rates on the basis that BHFC was not similarly situated as the LECA members, and therefore such rates are not available to BHFC.

BHFC was thereafter granted a continuance of the proceedings to allow BHFC and Qwest an opportunity to settle their dispute regarding the applicable rates. BHFC and Qwest have now come to an agreement that, with the Commission's approval, will allow for expedient settlement

of this docket. I have also enclosed ten (10) copies of the written agreement between BHFC and Qwest.

This docket is now ready to proceed and BHFC requests the following from the Commission:

1. Exemption from cost-specific rates.

BHFC hereby requests that the Commission, pursuant to ARSD 20:10:27:11 grant it an exemption from the requirement that it develop intrastate switched access rates based on company-specific costs. BHFC is a start-up CLEC which began operation on a limited basis in late 1999 in Rapid City and some of the Northern Black Hills communities. BHFC is still continuing construction of its network to provide services. BHFC currently does not have one year of usable historical test data, as required by ARSD 20:10:27:14 to establish company specific cost based access rates. Because of BHFC's continued construction, and because of BHFC's significant monthly growth since its inception, any historical data used to calculate cost-based rates is unlikely to produce accurate results or rates. Further, the process of determining company-specific cost-based rates would require BHFC to predict future additional customers, traffic usage, and the allocated investment, expenses and revenue for an undetermined customer profile. Requiring cost-based rates of BHFC would create excessive costs for BHFC without any benefit to BHFC's customers. For these reasons, exemption pursuant to ARSD 20:10:27:11 is warranted.

2. Concurrence in rates, terms and conditions of LECA Tariff No. 1.

BHFC hereby requests that the Commission approve its concurrence in the rates, terms and conditions of the LECA Tariff No. 1 as of November 22, 2000 with the exceptions noted below. ARSD 20:10:27:12 requires companies granted an exception pursuant to ARSD 20:10:27:11 to determine their initial switched access rates with reference to the average rates of all South Dakota cost-based companies with less than 100,000 access lines. BHFC's adoption of LECA Tariff No. 1 complies with ARSD 20:10:27:12. This request is consistent with the Commission's treatment of other similarly situated CLECs such as the Commission's action on FiberComm's Intrastate Access Tariff in Docket TC99-031, Northern Valley Communications Intrastate Switched Access Tariff in Docket TC99-092, and MidContinent Communications Intrastate Switched Access Tariff in Docket TC00-135, wherein the Commission granted requests very similar to BHFC's request herein.

BHFC's concurrence in the rates, terms and conditions (with the exceptions noted below) of the current LECA Tariff No. 1 is also based on the fact IXC's and other LEC's operating in the state should be very familiar with it. LECA Tariff No. 1 has already been used by the vast majority of local exchange carriers in this state for many years.

3. Rates consistent with Qwest's Tariffed Rates.

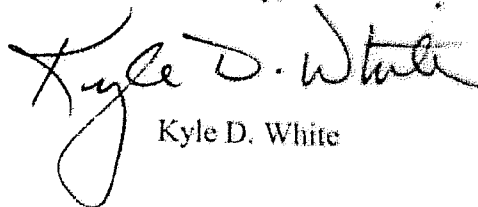
BHFC hereby requests that the Commission grant it a waiver from the requirement of ARSD 20:10:27:12 that BHFC's access rates mirror precisely the rates of all cost-based companies with less than 100,000 access lines. Specifically, BHFC requests that the Commission approve the exception in BHFC's concurrence in the LECA Tariff No. 1 contained in pages 17-1 and 17-4 of BHFC's proposed Tariff. The rates contained in these pages are essentially the same rates in Qwest's Intrastate Access Service Tariff approved by the Commission. These rates were arrived at through BHFC's and Qwest's negotiation and settlement of their respective positions in Docket TC00-190 (see attached Stipulation and Agreement to Settle Docket No. TC00-190). These rates are also lower than the applicable LECA rates BHFC would be entitled to charge if the Commission were to approve BHFC's original request for exemption and rate setting pursuant to ARSD 20:10:27:12 (see BHFC's original Tariff Application). Approval of these lower rates as proposed and agreed by BHFC and Qwest are in the best interest of both parties' respective customers and in the best interest of expedient closure of this docket.

4. Approval of Stipulation and Agreement.

BHFC hereby requests that the Commission adopt and approve the Stipulation and Agreement to Settle Docket No. TC00-190 in its entirety. The agreement represents a negotiated settlement of the respective positions of BHFC and Qwest in Docket No. TC00-190, the settlement of which is in the best interest of both parties, their customers, and judicial and administrative economy.

If you have any questions, please contact me at 605/721-1700 or Greg Bernard of Morrill Thomas Nooney & Braun at 605/348-7516. Thank you for your attention to this matter.

Sincerely,



Kyle D. White

KDW/mkt
Enclosures

BLACK HILLS FIBERCOM, LLC
RAPID CITY, SOUTH DAKOTA

TARIFF NO. 1
Original Title Page

SOUTH DAKOTA SWITCHED ACCESS SERVICES

RECEIVED

OCT 01 2001

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

A. CONCURRENCE IN RATES, TERMS AND CONDITIONS OF LOCAL EXCHANGE
CARRIER ASSOCIATION, INC. TARIFF NO. 1

1. Black Hills FiberCom, LLC concurs in the rates, terms and conditions, except as noted below, of Local Exchange Carrier Association, Inc. Tariff No. 1 governing Intrastate Access Service as filed by the Local Exchange Carrier Association, Inc. in the State of South Dakota. Black Hills FiberCom, LLC concurs in the current Local Exchange Carrier Association, Inc. Tariff No. 1 as of November 22, 2000 as shown by the attached TARIFF CHECKLIST pages. The only exceptions to this concurrence are the attached pages 17-1 and 17-4, which replace the current Local Exchange Carrier Association, Inc. Tariff No. 1 pages 17-1 and 17-4.
2. Black Hills FiberCom, LLC hereby expressly reserves the right to cancel or void this statement of concurrence at any time consistent with state law and the best interests of Black Hills FiberCom, LLC by filing a replacement tariff with the South Dakota Public Utilities Commission.

Issued: September 19, 2001

Effective:

By: Vice President of Corporate Affairs
PO Box 2115
Rapid City, SD 57709

TARIFF CHECKLIST
All Pages Are Original Unless Otherwise Noted

<u>Page</u>	<u>Revision Number</u>	<u>Page</u>	<u>Revision Number</u>	<u>Page</u>	<u>Revision Number</u>
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4		1-1		2-40	
5				2-41	
6		2-1		2-42	
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By: Dean Anderson
President
P.O. Box 920
Clear Lake, SD 57226

TARIFF CHECKLIST

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 P.O. Box 920
 Clear Lake, SD 57226

SOUTH DAKOTA SWITCHED ACCESS SERVICES

17. Rates and Charges

17.1 Common Line Access Service

17.1.1 Carrier Common Line Access Service

Rate

Regulations concerning Carrier Common Line Access
are set forth in Section 3. Preceding.

Per Access Minute

\$0.038905

17.1.2 Reserved for Future Use

Issued: September 19, 2001

Effective:

By: Vice President of Corporate Affairs
PO Box 2115
Rapid City, SD 57709

SOUTH DAKOTA SWITCHED ACCESS SERVICES

17. Rates and Charges (Cont'd)

17.2 Switched Access Service

17.2.1 Nonrecurring Charges

- (A) Local Transport Element -
Installation Per Line or Trunk
- (B) Reserved for Future Use
- (C) Interim NXX Translation Per Order

Per LATA or Market Area

17.2.2 Traffic Sensitive

Local Switching (End Office)

Per Access Minute

Local Transport

Per Access Minute

Network Blocking Per Blocked Call

Applies to FGD only

8XX Data Base Query Service

Per Query

Basic

Vertical Feature

Rate

\$295.00

\$181.00

\$0.008610

\$0.005341

\$0.0271

\$0.0079

\$0.0082

Issued: September 19, 2001

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By: Vice President of Corporate Affairs
PO Box 2115
Rapid City, SD 57709

STIPULATION AND AGREEMENT TO SETTLE DOCKET NO. TC00-190

This Stipulation and Agreement ("Agreement") is entered into by Qwest Corporation ("Qwest") and Black Hills FiberCom, L.L.C. ("FiberCom"). The parties hereby stipulate and agree as follows:

1. Currently pending before the South Dakota Public Utilities Commission ("Commission") is FiberCom's Request for Exemption from Development of Company-Specific Cost-Based Switched Access Rates, and application for approval of its Intrastate Switched Access Tariff No. 1 (Docket TC00-190).
2. It is FiberCom's position in Docket TC00-190 that pursuant to ARSD 20:10:27:11, FiberCom should be exempted from developing intrastate switched access rates based on company-specific costs, as required by the Commission's regulations for the following reasons: FiberCom is a start-up competitive local exchange carriers ("CLEC") that has started operations in Rapid City and some of the northern Black Hills communities. FiberCom currently does not have one year of usable historical test data, as required by ARSD 20:10:27:14, to establish company-specific cost-based switched access rates. Additionally, the process of determining company-specific cost-based rates would require FiberCom to predict future additional customers, traffic usage, and the allocated investment, expenses and revenue for an undetermined customer profile. This would be very difficult for FiberCom to do at this time. Furthermore, such estimates would be unlikely to produce accurate results or rates. Requiring cost-based rates of FiberCom would create excessive costs for FiberCom without any benefit to FiberCom's customers.
3. It is also FiberCom's position in Docket TC 00-190 that if granted an exemption pursuant to ARSD 20:10:27:11, FiberCom may concur in and adopt the rates, terms and conditions

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of Local Exchange Carrier Associations, Inc. Tariff No. 1 governing intrastate access service as filed by the Local Exchange Carrier Associations, Inc. in the State of South Dakota, with the exception that, pursuant to ARSD 20:10:27:12, originating and terminating switched access rates will be based on the costs of all the telecommunications companies in South Dakota with less than 100,000 access lines that determine switched access costs pursuant to ARSD Chapters 20:10:28 and 20:10:29, which current rates are reflected in FiberCom's proposed tariff filed in Docket TC00-190.

4. Qwest was granted leave by the Commission to intervene in Docket TC00-190 to protect its interests affected by the Commission's disposition of FiberCom's application for tariff approval.

5. It is Qwest's position in Docket TC00-190 that FiberCom is not entitled to set FiberCom's switched access rates by the methods prescribed by ARSD 20:10:27:12 for the reason that FiberCom is not similarly situated as the predominantly rural telephone cooperative companies which comprise the basis upon which switched access rates are calculated pursuant to that section; and therefore, FiberCom's proposed switched access rates are unreasonably inflated above FiberCom's true cost-based rates which, if approved, would cause Qwest to pay an inflated price for switched access services it purchases from FiberCom.

6. It is also Qwest's position in Docket TC00-190 to determine that FiberCom's switched access rates are determined in accordance with the facts and applicable law.

7. Both parties hereto recognize and agree that the cost of litigating this matter before the Commission and through any subsequent appeals would outweigh the benefit to either party and their customers of having FiberCom's switched access rates set through the litigation process.

8. In consideration of both parties' compromise of their respective positions in Docket TC00-190, both parties further agree as follows:

- (a) FiberCom shall amend its application for tariff approval in Docket TC00-190 to propose originating and terminating switched access rates which match the originating and terminating switched access rates charged by Qwest in Qwest's Access Services Tariff filed with and approved by the Commission. FiberCom's amended application shall be in the form of Appendix A attached hereto.
- (b) Qwest shall withdraw its intervention in Docket TC00-190 and shall take no position on FiberCom's Request for Exemption under ARSD 20:10:27:11 and shall take no position on FiberCom's application for tariff approval with amended proposed switched access rates.
- (c) If the Commission approves FiberCom's intrastate switched access tariff as agreed to herein, then FiberCom will, within three (3) years of the entry of the Order approving such tariff either file a petition to continue the exemption granted under ARSD 20:10:27:11 or file cost based rates.

9. The parties acknowledge and agree that this Agreement is a compromise of the positions which would be asserted if the matter is litigated. Accordingly, evidence of conduct or statements made in negotiations and discussions in connection with this Agreement shall not be admissible in any proceeding.

10. It is specifically understood and agreed by both parties that each party's rights and obligations under this Agreement are contingent upon the Commission's approval of all material provisions of FiberCom's amended application for approval of its Intrastate Switched Access Tariff, and that this Agreement shall not become effective and shall be of no force and effect until the Commission issues a final Order accepting and approving this Agreement.

11. The parties have entered into this Agreement as an integrated document and urge the Commission to adopt it in its entirety. Accordingly, in the event any part or all of this Agreement is modified or rejected by the Commission, each party reserves the right, upon written notice to the Commission and all other parties within five (5) days of the effective date of the final written Commission Order, to withdraw from this Agreement without being bound by its terms in this or any

other proceeding. Any party that elects to withdraw shall be entitled to proceed with all its rights, claims and defenses and shall not otherwise be prejudiced by the terms of this Agreement.

12. The parties agree that this Agreement establishes no precedent.

13. The parties submit this Agreement and request that the Commission issue its decision accepting this Agreement without modification.

Dated this 24th day of SEPTEMBER, 2001.

QWEST CORPORATION

By: [Signature]
Its: VP

Dated this 19 day of September, 2001.

BLACK HILLS FIBERCOM, LLC.

By: [Signature]
Its: VP/GM

BLACK HILLS FIBERCOM, LLC
RAPID CITY, SOUTH DAKOTA

TARIFF NO. 1
Original Title Page

SOUTH DAKOTA SWITCHED ACCESS SERVICES

A. CONCURRENCE IN RATES, TERMS AND CONDITIONS OF LOCAL EXCHANGE
CARRIER ASSOCIATION, INC. TARIFF NO. 1

1. Black Hills FiberCom, LLC concurs in the rates, terms and conditions, except as noted below, of Local Exchange Carrier Association, Inc. Tariff No. 1 governing Intrastate Access Service as filed by the Local Exchange Carrier Association, Inc. in the State of South Dakota. Black Hills FiberCom, LLC concurs in the current Local Exchange Carrier Association, Inc. Tariff No. 1 as of November 22, 2000 as shown by the attached TARIFF CHECKLIST pages. The only exceptions to this concurrence are the attached pages 17-1 and 17-4, which replace the current Local Exchange Carrier Association, Inc. Tariff No. 1 pages 17-1 and 17-4.
2. Black Hills FiberCom, LLC hereby expressly reserves the right to cancel or void this statement of concurrence at any time consistent with state law and the best interests of Black Hills FiberCom, LLC by filing a replacement tariff with the South Dakota Public Utilities Commission.

Issued: September 19, 2001

Effective:

By: Vice President of Corporate Affairs
PO Box 2115
Rapid City, SD 57709

Appendix A
LOCAL EXCHANGE CARRIER ASSOCIATION, INC.

TARIFF NO. 1
4th Revised Checklist Page 1
Cancels 3rd Revised Checklist Page 1

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* New This Issue

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President
P.O. Box 920
Clear Lake, SD 57226

Appendix A
LOCAL EXCHANGE CARRIER ASSOCIATION, INC.

TARIFF NO. 1
3rd Revised Checklist Page 2
Cancels 2nd Revised Checklist Page 2

TARIFF CHECKLIST
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By: Dean Anderson
President
P.O. Box 920
Clear Lake, SD 57226

BLACK HILLS FIBERCOM, LLC
RAPID CITY, SOUTH DAKOTA

TARIFF NO. 1
Original Page 17-1

SOUTH DAKOTA SWITCHED ACCESS SERVICES

17. Rates and Charges

17.1 Common Line Access Service

17.1.1 Carrier Common Line Access Service

Rate

Regulations concerning Carrier Common Line Access
are set forth in Section 3. Preceding.

Per Access Minute

~~\$0.018905~~

17.1.2 Reserved for Future Use

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PO Box 2115
Rapid City, SD 57709

BLACK HILLS FIBERCOM, LLC
RAPID CITY, SOUTH DAKOTA

TARIFF NO. 1
Original Page 17-4

SOUTH DAKOTA SWITCHED ACCESS SERVICES

17. Rates and Charges (Cont'd)

17.2 Switched Access Service

17.2.1 Nonrecurring Charges

	<u>Rate</u>
(A) <u>Local Transport Element -</u> <u>Installation Per Line or Trunk</u>	\$295.00
(B) <u>Reserved for Future Use</u>	
(C) <u>Interim NXX Translation Per Order</u>	\$181.00
Per LATA or Market Area	

17.2.2 Traffic Sensitive

Local Switching (End Office)

Per Access Minute \$0.008610

Local Transport

Per Access Minute \$0.005341

Network Blocking Per Blocked Call

Applies to FGD only \$0.0271

8XX Data Base Query Service

Per Query

Basic

Vertical Feature

\$0.0079

\$0.0082

Issued: September 19, 2001

Effective:

By: Vice President of Corporate Affairs
PO Box 2115
Rapid City, SD 57709

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILING BY BLACK HILLS FIBERCOM, L.L.C. FOR APPROVAL OF ITS INTRASTATE SWITCHED ACCESS TARIFF AND FOR AN EXEMPTION FROM DEVELOPING COMPANY SPECIFIC COST- BASED SWITCHED ACCESS RATES)))))))	ORDER GRANTING PETITION FOR WAIVER AND APPROVING STIPULATION AND AGREEMENT TC00-190
--	---------------------------------	---

On November 22, 2000, the Public Utilities Commission (Commission) received a filing from Black Hills FiberCom, L.L.C. (FiberCom) for approval of its intrastate switched access tariff and for an exemption from developing company specific cost-based switched access rates. The tariff filing is a concurrence in the rates, terms and conditions of the current LECA Tariff No. 1, with the exception of the switched access rates which are based on a statewide average. The company is also requesting that the Commission exempt it from the requirement to develop intrastate switched access rates based on company specific costs. The company is requesting an effective date of November 22, 2000.

On November 23, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of December 8, 2000, to interested individuals and entities. Qwest Corporation (Qwest) filed a Petition for Leave to Intervene on December 6, 2000. At its regularly scheduled meeting of December 12, 2000, the Commission granted intervention to Qwest. On January 16, 2001, the Commission received a Motion for Continuance and Affidavit of Counsel from FiberCom. On October 1, 2001, the Commission received a revised switched access tariff from FiberCom. On October 1, 2001, the Commission received a Stipulation and Agreement to Settle Docket No. TC00-190.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 49-31, specifically 49-31-18 and 49-31-19 and ARSD Chapters 20:10:27 through 20:10:29, inclusive.

On October 10, 2001, the Commission considered FiberCom's request for approval of its intrastate switched access tariff no. 1 and a waiver from establishing switched access rates based on company specific costs. The Commission also considered the Stipulation and Agreement. The Commission voted to grant the petition for exemption from developing company specific cost-based switched access rates pursuant to ARSD 20:10:27:11. The Commission also granted FiberCom's request to waive ARSD 20:10:27:12 pursuant to ARSD 20:10:27:02. The Commission approved FiberCom's intrastate switched access tariff no. 1 as set forth in the Stipulation and Agreement. The Commission also voted to approve the Stipulation and Agreement, effective October 10, 2001, attached hereto as Exhibit A. The Commission further ordered that FiberCom, within three years of the date of this Order, file a petition to continue the exemption granted in this proceeding or file cost-based rates. The Commission voted to grant the petition for exemption as conditioned herein and approve the tariff. It is therefore

ORDERED, that FiberCom's petition to be exempt from establishing company specific cost-based switched access rates is granted and its intrastate switched access tariff no. 1, as amended is approved; and it is further

ORDERED, that FiberCom shall, within three years of the date of this Order, file a petition to continue the exemption granted in this proceeding or file cost-based intrastate switched access rates; and it is further

ORDERED, that the Stipulation and Agreement is approved, effective October 10, 2001.

Dated at Pierre, South Dakota, this 18th day of October, 2001.

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: Hellaine Kelbo

Date: 10/19/01

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

STIPULATION AND AGREEMENT TO SETTLE DOCKET NO. TC00-190

This Stipulation and Agreement ("Agreement") is entered into by Qwest Corporation ("Qwest") and Black Hills FiberCom, L.L.C. ("FiberCom"). The parties hereby stipulate and agree as follows:

1. Currently pending before the South Dakota Public Utilities Commission ("Commission") is FiberCom's Request for Exemption from Development of Company-Specific Cost-Based Switched Access Rates, and application for approval of its Intrastate Switched Access Tariff No. 1 (Docket TC00-190).

2. It is FiberCom's position in Docket TC00-190 that pursuant to ARSD 20:10:27:11, FiberCom should be exempted from developing intrastate switched access rates based on company-specific costs, as required by the Commission's regulations for the following reasons: FiberCom is a start-up competitive local exchange carriers ("CLEC") that has started operations in Rapid City and some of the northern Black Hills communities. FiberCom currently does not have one year of usable historical test data, as required by ARSD 20:10:27:14, to establish company-specific cost-based switched access rates. Additionally, the process of determining company-specific cost-based rates would require FiberCom to predict future additional customers, traffic usage, and the allocated investment, expenses and revenue for an undetermined customer profile. This would be very difficult for FiberCom to do at this time. Furthermore, such estimates would be unlikely to produce accurate results or rates. Requiring cost-based rates of FiberCom would create excessive costs for FiberCom without any benefit to FiberCom's customers.

3. It is also FiberCom's position in Docket TC 00-190 that if granted an exemption pursuant to ARSD 20:10:27:11, FiberCom may concur in and adopt the rates, terms and conditions

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of Local Exchange Carrier Associations, Inc. Tariff No. 1 governing intrastate access service as filed by the Local Exchange Carrier Associations, Inc. in the State of South Dakota, with the exception that, pursuant to ARSD 20:10:27:12, originating and terminating switched access rates will be based on the costs of all the telecommunications companies in South Dakota with less than 100,000 access lines that determine switched access costs pursuant to ARSD Chapters 20:10:28 and 20:10:29, which current rates are reflected in FiberCom's proposed tariff filed in Docket TC00-190.

4. Qwest was granted leave by the Commission to intervene in Docket TC00-190 to protect its interests affected by the Commission's disposition of FiberCom's application for tariff approval.

5. It is Qwest's position in Docket TC00-190 that FiberCom is not entitled to set FiberCom's switched access rates by the methods prescribed by ARSD 20:10:27:12 for the reason that FiberCom is not similarly situated as the predominantly rural telephone cooperative companies which comprise the basis upon which switched access rates are calculated pursuant to that section, and therefore, FiberCom's proposed switched access rates are unreasonably inflated above FiberCom's true cost-based rates which, if approved, would cause Qwest to pay an inflated price for switched access services it purchases from FiberCom.

6. It is also Qwest's position in Docket TC00-190 to determine that FiberCom's switched access rates are determined in accordance with the facts and applicable law.

7. Both parties hereto recognize and agree that the cost of litigating this matter before the Commission and through any subsequent appeals would outweigh the benefit to either party and their customers of having FiberCom's switched access rates set through the litigation process.

8. In consideration of both parties' compromise of their respective positions in Docket TC00-190, both parties further agree as follows:

- (a) FiberCom shall amend its application for tariff approval in Docket TC00-190 to propose originating and terminating switched access rates which match the originating and terminating switched access rates charged by Qwest in Qwest's Access Services Tariff filed with and approved by the Commission. FiberCom's amended application shall be in the form of Appendix A attached hereto.
- (b) Qwest shall withdraw its intervention in Docket TC00-190 and shall take no position on FiberCom's Request for Exemption under ARSD 20:10:27:11 and shall take no position on FiberCom's application for tariff approval with amended proposed switched access rates.
- (c) If the Commission approves FiberCom's intrastate switched access tariff as agreed to herein, then FiberCom will, within three (3) years of the entry of the Order approving such tariff either file a petition to continue the exemption granted under ARSD 20:10:27:11 or file cost based rates.

9. The parties acknowledge and agree that this Agreement is a compromise of the positions which would be asserted if the matter is litigated. Accordingly, evidence of conduct or statements made in negotiations and discussions in connection with this Agreement shall not be admissible in any proceeding.

10. It is specifically understood and agreed by both parties that each party's rights and obligations under this Agreement are contingent upon the Commission's approval of all material provisions of FiberCom's amended application for approval of its Intrastate Switched Access Tariff, and that this Agreement shall not become effective and shall be of no force and effect until the Commission issues a final Order accepting and approving this Agreement.

11. The parties have entered into this Agreement as an integrated document and urge the Commission to adopt it in its entirety. Accordingly, in the event any part or all of this Agreement is modified or rejected by the Commission, each party reserves the right, upon written notice to the Commission and all other parties within five (5) days of the effective date of the final written Commission Order, to withdraw from this Agreement without being bound by its terms in this or any

other proceeding. Any party that elects to withdraw shall be entitled to proceed with all its rights, claims and defenses and shall not otherwise be prejudiced by the terms of this Agreement.

12. The parties agree that this Agreement establishes no precedent.

13. The parties submit this Agreement and request that the Commission issue its decision accepting this Agreement without modification.

Dated this 24th day of SEPTEMBER 2001.

QWEST CORPORATION

By: 

Its: VP

Dated this 19 day of September, 2001.

BLACK HILLS FIBERCOM, L.L.C.

By: 

Its: VP

BLACK HILLS FIBERCOM, LLC
RAPID CITY, SOUTH DAKOTA

TARIFF NO. 1
Original Title Page

SOUTH DAKOTA SWITCHED ACCESS SERVICES

A. CONCURRENCE IN RATES, TERMS AND CONDITIONS OF LOCAL EXCHANGE
CARRIER ASSOCIATION, INC. TARIFF NO. 1

1. Black Hills FiberCom, LLC concurs in the rates, terms and conditions, except as noted below, of Local Exchange Carrier Association, Inc. Tariff No. 1 governing Intrastate Access Service as filed by the Local Exchange Carrier Association, Inc. in the State of South Dakota. Black Hills FiberCom, LLC concurs in the current Local Exchange Carrier Association, Inc. Tariff No. 1 as of November 22, 2000 as shown by the attached TARIFF CHECKLIST pages. The only exceptions to this concurrence are the attached pages 17-1 and 17-4, which replace the current Local Exchange Carrier Association, Inc. Tariff No. 1 pages 17-1 and 17-4.
2. Black Hills FiberCom, LLC hereby expressly reserves the right to cancel or void this statement of concurrence at any time consistent with state law and the best interests of Black Hills FiberCom, LLC by filing a replacement tariff with the South Dakota Public Utilities Commission.

Issued: September 19, 2001

By: Vice President of Corporate Affairs
PO Box 2115
Rapid City, SD 57709

Effective:

Appendix A
LOCAL EXCHANGE CARRIER ASSOCIATION, INC.

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Cancels 3rd Revised Checklist Page 1

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President
P.O. Box 920
Clear Lake, SD 57216

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Clear Lake, SD 57226

Appendix A
LOCAL EXCHANGE CARRIER ASSOCIATION, INC.

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16th Revised Checklist Page 3
Cancels 15th Revised Checklist Page 3

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All Pages Are Original Unless Otherwise Noted

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BLACK HILLS FIBERCOM, LLC
RAPID CITY, SOUTH DAKOTA

TARIFF NO. 1
Original Page 17-1

SOUTH DAKOTA SWITCHED ACCESS SERVICES

17. Rates and Charges

17.1 Common Line Access Service

17.1.1 Carrier Common Line Access Service

Rate

Regulations concerning Carrier Common Line Access
are set forth in Section 3. Preceding.

Per Access Minute

\$0.038905

17.1.2 Reserved for Future Use

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BLACK HILLS FIBERCOM, LLC
RAPID CITY, SOUTH DAKOTA

TARIFF NO. 1
Original Page 17-4

SOUTH DAKOTA SWITCHED ACCESS SERVICES

17. Rates and Charges (Cont'd)

17.2 Switched Access Service

17.2.1 Nonrecurring Charges

	<u>Rate</u>
(A) <u>Local Transport Element -</u> <u>Installation Per Line or Trunk</u>	\$295.00
(B) <u>Reserved for Future Use</u>	
(C) <u>Interim NXX Translation Per Order</u>	\$181.00
Per LATA or Market Area	

17.2.2 Traffic Sensitive

Local Switching (End Office)

Per Access Minute \$0.008610

Local Transport

Per Access Minute \$0.005341

Network Blocking Per Blocked Call

Applies to FGD only \$0.0271

8XX Data Base Query Service

Per Query

Basic	\$0.0079
Vertical Feature	\$0.0082

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