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September 23, 2005

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SEP 23 2005

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

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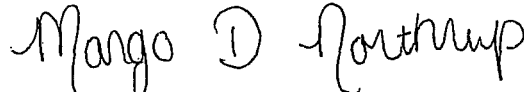
Re: In the Matter of the Establishment of LECs 2004 Switched Access Revenue Requirements Docket TC04-104 and TC04-106

Dear Pam:

Enclosed herein please find original and ten copies of the Joint Answer of CRST and Alliance to AT&T's Petition to Intervene.

Sincerely yours,

RITER, ROGERS, WATTIER & BROWN, LLP

By: 
Margo D. Northrup

MDN/rar

Enclosures

cc: Karen Cremer
John S. Lovald
LECs

RECEIVED

SEP 23 2005

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE ESTAB-
LISHMENT OF LECs' 2004 SWITCHED
ACCESS REVENUE REQUIREMENTS

JOINT ANSWER OF
CRST AND ALLIANCE TO
AT&T'S PETITIONS TO INTERVENE

CHEYENNE RIVER SIOUX TRIBAL AUTHORITY
ALLIANCE COMMUNICATIONS COOPERATIVE

TC04-104
TC04-106

COME NOW Cheyenne River Sioux Tribal Authority and Alliance Com-
munications Cooperative, hereinafter referred to as "CRST" or "Alliance," respectively,
and collectively as "LECs," by their undersigned attorney, and jointly file this Answer to
the Petitions of AT&T Communications of the Midwest, Inc. ("AT&T") to Intervene in
the above dockets.

1. LECs admit that AT&T is a certificated communications company,
subject to the jurisdiction of the South Dakota Public Utilities Commission ("Commis-
sion").
2. On June 22, 2004, and June 23, 2004, CRST and Alliance filed cost
studies with the Commission, in accordance with the Commission's current cost study
rules.
3. The intervention deadline in both dockets was July 9, 2004, and AT&T
failed to intervene prior to expiration of said deadline.
4. Pursuant to appropriate notice, the Commission held a hearing on these
dockets on July 15, 2004, for the purpose of assessing initial filing fees.

5. AT&T has taken no action in this matter until filing of the current Petitions to Intervene, dated September 14, 2005.

6. ARSD 20:10:01:15.02 sets forth the test for allowance of late-filed intervention petitions:

A petition to intervene which is not timely filed with the Commission may not be granted by the Commission unless denial of the petition is shown to be detrimental to the public interest or to be likely to result in a miscarriage of justice. (Emphasis added.)

7. AT&T has failed to sustain its burden for this Commission to grant late-filed Petitions to Intervene in these dockets.

8. LECs deny that their initial filings have been amended.

9. LECs specifically deny that their switched access rates are overstated.¹

10. Because AT&T has not been a party to these proceedings, it would have no way of knowing if anything of substance has occurred in the LECs' dockets, and even if that were the case, which LECs do not concede, that is not a sufficient reason to allow a late-filed intervention. LECs specifically deny AT&T's allegation that "nothing of substance has occurred," as some of the companies' individual cost studies have been agreed to by Staff, and only await final Commission approval.

11. LECs admit that they are experiencing a decrease in volume of traffic, but submit that is one of the reasons they filed cost studies in 2004.

12. LECs specifically deny that their loss of minutes of use "may be due, in part, to their own action deploying VoIP service or wireless service." CRST and Alli-

¹ In Paragraph 3 of its Petition to Intervene in Docket TC04-104 (Cheyenne River Sioux Tribal Authority), AT&T refers to "[o]verstated switched access rates by the Authority as a whole" (emphasis added). LECs have insufficient information to determine whom AT&T is referring to as the "Authority as a whole."

ance are not currently engaged in a wireless business, nor have CRST and Alliance deployed VoIP Service.

13. LECs specifically deny that they or their affiliates recover revenue for the traffic loss from their VoIP or wireless services.

14. LECs would be prejudiced if AT&T's late-filed Petitions in these dockets are granted. To allow a new party to intervene in dockets more than a year after the intervention deadline has passed would cause further delays in the proceedings, and subject LECs to the further expense of additional discovery requests from the new party. This is exactly the kind of prejudice that enforcement of an intervention deadline precludes.

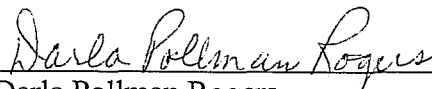
15. LECs would be further prejudiced if AT&T's Petition is granted, because AT&T seeks to raise a new and unrelated issue in the cost study dockets, i.e., whether LECA members "impute their own access rates to their services." That issue is not before the Commission in these dockets, and LECs would be greatly prejudiced by the exploration of new and additional issues in dockets that are over one year old.

16. This Commission's denial of AT&T's late-filed Petitions in these dockets will prevent LECs from prejudice caused by further delays, and such prejudice should not be permitted.

17. Prejudice to the LECs resulting from allowing AT&T to intervene in these dockets more than one year after the intervention deadline has passed outweighs any detriment to the public interest, and renders an intervention deadline meaningless.

WHEREFORE, the LECs respectfully request this Commission to deny AT&T's late-filed Petitions to Intervene.

Respectfully submitted this twenty-third day of September, 2005.



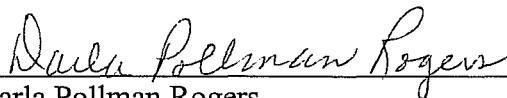
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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the JOINT ANSWER OF CRST AND ALLIANCE TO AT&T'S PETITIONS TO INTERVENE was served via the method(s) indicated below, on the twenty-third day of September, 2005, addressed to:

Karen Cremer, Staff Attorney	(X)	First Class Mail
South Dakota Public Utilities Commission	()	Hand Delivery
500 East Capitol Avenue	()	Facsimile
Pierre, South Dakota 57501	()	Overnight Delivery
	()	E-Mail
John S. Lovald	(X)	First Class Mail
William M. Van Camp	()	Hand Delivery
Olinger, Lovald, McCahren and Reimers, P.C	(X)	Facsimile
P. O. Box 66	()	Overnight Delivery
Pierre, South Dakota 57501	()	E-Mail

Dated this twenty-third day of September, 2005.



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