

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE ESTABLISHMENT OF LECs' 2004 SWITCHED ACCESS REVENUE REQUIREMENTS

JOINT ANSWER OF LECs
TO MCI'S
PETITIONS TO INTERVENE

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

CHEYENNE RIVER SIOUX TRIBAL AUTHORITY	TC04-104
ALLIANCE COMMUNICATIONS COOPERATIVE	TC04-106
SPLITROCK PROPERTIES	TC04-107
VALLEY TELECOMMUNICATIONS COOPERATIVE	TC04-108
VENTURE COMMUNICATIONS COOPERATIVE	TC04-111
BROOKINGS MUNICIPAL TELEPHONE D/B/A SWIFTEL	TC04-112
STOCKHOLM-STRANDBURG TELEPHONE COMPANY	TC04-114
SANTEL COMMUNICATIONS COOPERATIVE	TC04-116
JAMES VALLEY TELECOMMUNICATIONS	TC04-117
KENNEBEC TELEPHONE COMPANY	TC04-118
GOLDEN WEST TELECOMMUNICATIONS COOPERATIVE	TC04-120
VIVIAN TELEPHONE COMPANY	TC04-121
SIOUX VALLEY TELEPHONE COMPANY	TC04-122
BRIDGEWATER-CANISTOTA TELEPHONE COMPANY	TC04-123
UNION TELEPHONE COMPANY	TC04-124
WEST RIVER TELECOMMUNICATIONS COOPERATIVE (HAZEN)	TC04-125

COME NOW the above-named Local Exchange Companies ("LECs"), by their undersigned attorney, and jointly file this Answer to the Petitions of MCImetro Access Transmission Services, LLC ("MCI") to Intervene in the above dockets.

1. LECs admit that MCI is a certificated communications company, subject to the jurisdiction of the South Dakota Public Utilities Commission ("Commission").
2. Between the dates of June 22, 2004, and July 1, 2004, each of the above LECs filed a cost study with the Commission, in accordance with the Commission's current cost study rules.

3. The intervention deadlines in these dockets range from July 9, 2004, to July 23, 2004, and MCI failed to intervene prior to expiration of said deadlines.

4. Pursuant to appropriate notice, the Commission held hearings on these dockets for the purpose of assessing initial filing fees on July 15, 2004, and August 26, 2004.

5. Intervener has taken no action in this matter until filing of the current Petition to Intervene, dated August 31, 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. MCI has failed to sustain its burden for this Commission to grant late-filed Petitions to Intervene in these dockets.

8. MCI does not pay any switched access charges to the LECs herein. Therefore, the outcome of these dockets could not be deemed to have so great an impact on MCI as to rise to the level of “detrimental to the public interest” or a “miscarriage of justice” if its Petition to Intervene is denied.

9. LECs specifically deny that any of their initial filings have been amended.

10. Because MCI 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. In addition, MCI would have no knowledge of the status of re-

sponses to data requests from Staff. LECs specifically deny MCI'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. The LECs would be prejudiced if MCI's late-filed Petition in these dockets is 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.

12. The only stated purpose of MCI's Petition is to challenge the Commission's current switched access rules:

MCI verily believes that the Commission's switched access cost model is flawed permitting costs to be overstated, both because of the inappropriate use of known and measurable changes, as well as mistakes in the underlying cost support for the computation.

13. LECs have filed their cost studies in accordance with the current rules. To allow MCI to intervene and attempt to change those rules would be prejudicial to LECs, because it would force costly revisions or refilings of the current studies.

14. LECs further object to the Petition to Intervene because the LECs' individual cost study dockets are not the proper forums to determine whether the Commission's switched access cost model is flawed. The cost model, use of known and measurable changes, and the underlying cost support for the cost model, are all part of the current rules. LECs have appropriately followed the rules, and the LECs and the Commission are bound by the current rules. To change the rules within this docket would not

be appropriate and would be prejudicial to not only the LECs responding hereto, but to other LECs who are not a party to these dockets.

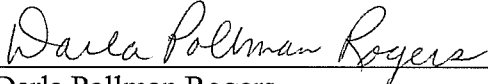
15. LECs are further prejudiced by MCI's Petition to Intervene because of MCI's employment of experts "to study the Commission's cost model, who will examine the cost figures underlying the proposed LECA tariff." The involvement of experts in these dockets, and conduct of additional discovery, will further delay approval of the cost studies, which would have a significant and adverse financial impact on the LECs.

16. This Commission's denial of MCI's late-filed Petitions in these dockets will prevent LECs from prejudice caused by further delays, and such prejudice should not be permitted when MCI has other avenues to achieve its stated purpose of questioning the Commission's switched access cost model.

17. This Commission's denial of MCI's late-filed petitions in these dockets would not result in a miscarriage of justice or detriment to the public interest because MCI is not left without recourse. There are other more appropriate methods for MCI to have its experts review the Commission's cost model. MCI can petition this Commission to open a rulemaking docket to investigate and ultimately revise the switched access rules.

WHEREFORE, the LECs respectfully request this Commission to deny MCI's late-filed intervention.

Respectfully submitted this fifteenth day of September, 2005.



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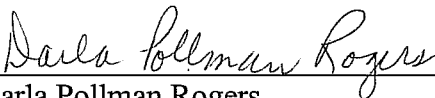
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the JOINT ANSWER OF LECs TO MCI'S PETITIONS TO INTERVENE was served via the method(s) indicated below, on the fifteenth day of September, 2005, addressed to:

Karen Cremer, Staff Attorney	<input checked="" type="checkbox"/>	First Class Mail
South Dakota Public Utilities Commission	<input type="checkbox"/>	Hand Delivery
500 East Capitol Avenue	<input type="checkbox"/>	Facsimile
Pierre, South Dakota 57501	<input type="checkbox"/>	Overnight Delivery
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Brett M. Koenecke	<input checked="" type="checkbox"/>	First Class Mail
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Pierre, South Dakota 57501	<input type="checkbox"/>	Overnight Delivery
	<input type="checkbox"/>	E-Mail

Dated this fifteenth day of September, 2005.



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