

TC 05-073

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May 31, 2005

Pamela Bonrud, Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

RECEIVED

MAY 31 2005

Re: Local Exchange Carriers Association (LECA)
Our File Number 05-007A

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Dear Pam:

Enclosed herein please find original and ten copies of LECA'S APPLICATION FOR WAIVER OF CERTAIN REQUIREMENTS OF ARSD 20:10:27:14.

Sincerely yours,



Darla Pollman Rogers
Attorney at Law

DPR/ph

Enclosures

CC: Jerry Reisenauer, President of LECA
Marlene Bennett, Martin Group

RECEIVED
MAY 31 2005
TC05-07:

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE
APPLICATION OF LOCAL EXCHANGE
CARRIERS ASSOCIATION AND ITS
MEMBERS FOR WAIVER OF
SWITCHED ACCESS COST STUDY

DOCKET NUMBER _____

APPLICATION FOR WAIVER
OF CERTAIN REQUIREMENTS
OF ARSD 20:10:27:14

Local Exchange Carriers Association (LECA) and its members respectfully request the South Dakota Public Utilities Commission (Commission) to grant them a waiver, pursuant to ARSD 20:10:27:02, of one of the requirements of the switched access cost study rules contained in the Historical Test Year Rule, ARSD 20:10:27:14.

ARSD 20:10:27 contains the rules governing cost studies to be filed with the Commission. Specifically, ARSD 20:10:27:14 requires that the costs and minutes filed in a study be based upon a recent test year reflecting actual costs:

The commission shall adopt a recent test year for which actual costs have been recorded and, if required, adjust the actual costs to reflect changes that are known and measurable. No adjustments are permitted unless they are based on changes in facilities, operations, or costs which are known with reasonable certainty and measurable with reasonable accuracy at the time of the filing. Such adjustments must become effective within 12 months of the last month of the test period. Expected changes in revenue must also be shown for the same period. Includable costs are limited to those which are necessary for the provision of service at the test year level. **The test period shall consist of 12 months of actual experience ending no earlier than 6 months before the date of filing initial switched access rates or for a change in switched access rates. Test year costs shall be allocated to intrastate switched access service pursuant to chapters 20:10:27 to 20:10:29, inclusive.** ARSD 20:10:17:14. (Emphasis added).

ARSD 20:10:27:02 provides that the Commission may, for good cause shown, either by its own motion or by application from a carrier's carrier, temporarily waive or suspend any rule in Chapter 20:10:27.

LECA and its members request a waiver of that portion of 20:10:27:14 that requires filing of minutes on a historical test year basis, for the following reasons:

1. Since 2003, LECA's members have experienced declining minutes of use. Collectively, the LECA members have experienced minute declines of 21% in 2003 and 15% in 2004. During the first three months of 2005, this trend continues.

2. ARSD 20:10:27:14 provides that the historical test period "shall consist of 12 months of actual experience ending no earlier than 6 months before the date of filing . . . for a change in switched access rates." Cost studies are filed by June 30 of each year, but the new LECA rates are not effective until August 1 of that year. This means that during the time period that the intrastate switched access costs are recovered, the minutes are a minimum of 8 months to 20 months old for companies filing cost studies in the current year. As a result, LECA and its members have failed to recover their approved intrastate switched access costs. The collective shortfall totaled \$6.6M in 2003 and \$5.5M in 2004.

3. The purpose of rate regulation is to allow LECA and its members the ability to recover their costs and, given the trend of declining minutes of use, the current rule as designed does not allow that.

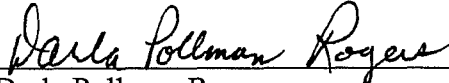
4. Use of projected minutes is not a new concept in telecommunications rate regulation, as filing cost studies based upon projected minutes and costs is the methodology utilized by NECA.

5. In future cost study filings, LECA and its members are requesting a waiver of the requirement of the rule to file historical minutes of use, which will allow LECA and its members to file projected minutes of use for the time period the new rates will be in effect. This limited waiver will allow LECA members, as stipulated in 20:10:27:06, to submit cost studies designed to recover no more than their intrastate switched access costs as determined by the Commission.

6. In order to prevent any over-recovery using projected minutes rather than historical minutes, LECA and its members will make adjustments in future cost studies and rates filed with the Commission.

WHEREFORE, LECA and its members submit that they have provided the Commission with good cause and respectfully request the Commission to waive the requirement in ARSD 20:10:27:14 of providing minutes of use on an historical basis, and requests the Commission to allow LECA and its members to file minutes of use on a projected basis in future cost studies.

Respectfully submitted this thirty-first day of May, 2005.



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