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SEP 23 2005

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September 23, 2005

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

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

Re: In the Matter of the Establishment of LECs 2005 Switched Access Revenue Requirements

Dear Pam:

Enclosed herein please find original and ten copies of the Joint Answer of LECs 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

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SEP 23 2005

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE ESTABLISHMENT OF LOCAL EXCHANGE CARRIERS ASSOCIATION'S (LECA) SWITCHED ACCESS REVENUE REQUIREMENTS FOR 2005

DOCKET TC05-096
ANSWER OF LECA
TO AT&T
PETITION TO INTERVENE

COMES NOW LOCAL EXCHANGE CARRIERS ASSOCIATION ("LECA"), by its undersigned attorney, and files this Answer to the Petition of AT&T Communications of the Midwest, Inc. ("AT&T") to Intervene in the above docket.

1. LECA admits that AT&T is a certificated communications company, subject to the jurisdiction of the South Dakota Public Utilities Commission ("Commission").

2. On or about June 30, 2005, LECA filed a letter and supporting documentation to establish revised switched access rates for the members of LECA, in accordance with the Commission's current cost study rules. Neither LECA nor its member companies have withdrawn their initial cost studies. Minutes of use and final rates were adjusted subsequent to LECA's withdrawal of Docket TC05-073, but LECA's cost study as filed has not been withdrawn. All of the said adjustments in this docket and in LECA members' dockets have been completed.

3. AT&T failed to state that its Petition is late-filed. The intervention deadline in this docket was July 15, 2005. AT&T failed to intervene prior to expiration of said deadline, and has taken no action in this matter until filing its Petition, dated September 14, 2005.

4. 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.)

5. AT&T has failed to sustain its burden for this Commission to grant a late-filed Petition to Intervene in this docket.

6. LECA admits that collectively its member companies are experiencing a decrease in volume of traffic, but submit that is one of the reasons some of the LECA member companies filed cost studies in 2005.

7. LECA specifically denies that its members' loss of minutes of use "may be due, in part, to their own action deploying VoIP service and wireless service."

8. LECA denies that its member companies recover revenue for the traffic loss from their VoIP or wireless services.

9. LECA would be prejudiced if AT&T's late-filed Petition in this docket is granted. To allow a new party to intervene in a docket after the intervention deadline has passed would cause further delays in the proceeding and subject LECA to the further expense of additional discovery requests from the new party. This is exactly the kind of prejudice that the enforcement of an intervention deadline precludes.

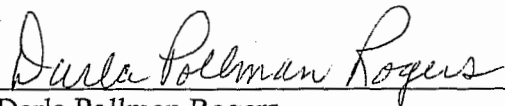
10. LECA would be further prejudiced if AT&T's Petition is granted, because AT&T seeks to raise a new and unrelated issue in this docket, i.e., whether LECA members "impute their own access rates to their services." That issue is not before the Commission in this docket, and LECA would be greatly prejudiced by the exploration of new and additional issues within this docket.

11. This Commission's denial of AT&T's late-filed petition in this docket would prevent LECA from being prejudiced by further delays, and such prejudice should not be permitted.

12. This Commission's denial of AT&T's late-filed petition in this docket would not result in a miscarriage of justice or detriment to the public interest because AT&T is not left without recourse. There are other more appropriate methods for AT&T to raise the issues addressed in its Petition.

WHEREFORE, LECA respectfully requests this Commission to deny AT&T's late-filed intervention.

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 ANSWER OF LECA TO AT&T'S PETITION 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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