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Rural roots, global connections

July 25, 2006

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Ms. Patty Van Gerpen, Executive Director
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Ave.
Pierre, SD 57501

RE: Docket TC05-153 (In the Matter of the Review of the Implementation of 811 as a National Abbreviated Dialing Code for One Call Notification)

Dear Ms. Van Gerpen:

This letter is filed pursuant to the Commission's Order issued in the above referenced matter on June 5, 2006. In regards to the questions raised in that Order for additional comment, SDTA would like to respond to question #2 – whether the Commission should “adopt an implementation date of December 31, 2006, to be followed by all affected telecommunications companies.”

SDTA would question whether the Commission has the authority to mandate a December 31, 2006, date for 811 implementation and, in any event, changing the established FCC timeline does not appear necessary given the progress of implementation to date in South Dakota and the plans of remaining incumbent local exchange carriers (“ILECs”) related to 811 implementation. Information SDTA has obtained from its member companies would indicate that most ILECs have already implemented 811 or intend to do so, voluntarily, by the end of this year. There are only a few that may have to delay implementation past the first of the year, but the delay will be short and it appears that a full implementation in South Dakota can be expected in the January–February timeframe.

It is our understanding that this Commission is considering whether it may alter the federal deadline for implementation based on language in the FCC's 811 Order which delegated to the states the authority to “address technical and operation issues associated with the implementation of the 811 code.” (*See* FCC 05-59, CC Docket No. 92-105, In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements, released March 14, 2005, par. 2, referenced herein as the “FCC Order” or “Order”). SDTA believes it to be quite evident in reviewing the entire FCC Order that this language did not confer on state commissions the ability to alter the established federal implementation date. The FCC in seeking comment prior to the issuance of its Order specifically sought comment “on whether the period for implementation should be

uniform or variable and based on local conditions and whether, pursuant to section 251(e) [of the Federal Communications Act], we should delegate authority to the states to establish the timeframe for implementation . . .” Par. 31. In issuing its Order, the FCC clearly addressed these issues and stated as follows:

[W]e decline to delegate authority to state commissions, as suggested by the CPUC, to establish the implementation period. We agree with SBC that the statute calls for a nationwide solution and that allowing states to establish the implementation period would not meet this mandate. Therefore, as discussed above, we have established a two year period for implementing 811 as the national abbreviated dialing code for access to state One Call Centers. (*See* par. 35).

The above findings from the FCC Order clearly indicate that this Commission does not have authority to change the FCC’s established timeline.

The SDTA companies are certainly not averse to implementing 811 at an earlier time and, in fact, many of its member companies have already taken such action. It is not appropriate, however, for this Commission to mandate a different timeline given the FCC’s specific findings on the implementation timeframe issue.

Thank you for your consideration of these comments.

Respectfully submitted,



Richard D. Coit
Executive Director and General Counsel

CC: SDTA Member Companies
Larry Englerth, Executive Director - SD One Call