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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

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Ms. Patricia Van Gerpen
South Dakota Public Utilities Commission
Capitol Building, 1st Floor
500 East Capitol Avenue
Pierre, SD 57501-5070

RE: Motions for Consolidation on Petitions for Arbitration

Dear Ms. Van Gerpen:


Enclosed for filing, please find the Motions for Consolidation for the following:

1. Armour Independent Telephone Company TC06-036;
2. Bridgewater-Canistota Independent Telephone Company TC06-037;
3. Golden West Telecommunications Cooperative, Inc. TC06-038;
4. Kadoka Telephone Company TC06-039;
5. Sioux Valley Telephone Company TC06-040;
6. Union Telephone Company of Hartford TC06-041; and
7. Vivian Telephone Company TC06-042.

By copy of this correspondence, I am intending service by mail on attorney Talbot Wieczorek.

Best regards.

Sincerely,

CUTLER & DONAHOE, LLP

Meredith A. Moore
For the Firm

MAM/jlh
Enclosures

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

| | |
|---|---------------------------------|
| IN THE MATTER OF THE PETITION OF) | |
| VIVIAN TELEPHONE COMPANY FOR) | DOCKET NO. TC06-042 |
| ARBITRATION PURSUANT TO THE) | |
| TELECOMMUNICATIONS ACT OF 1996) | MOTION FOR CONSOLIDATION |
| TO RESOLVE ISSUES RELATING TO) | |
| INTERCONNECTION AGREEMENTS) | |
| WITH WWC LICENSE L.L.C.) | |

COMES NOW VIVIAN TELEPHONE COMPANY, by and through its undersigned counsel, and respectfully requests that, pursuant to SDCL § 15-6-42(a), this Commission issue an Order consolidating this action with six other similar telecommunications dockets currently pending before the Commission. Those dockets are styled as:

In the Matter of the Petition of Armour Independent Telephone Company of Hartford for Arbitration Pursuant to the Telecommunications Act of 1996 to Resolve Issues Relating to Interconnection Agreements with WWC License, L.L.C.;

In the Matter of the Petition of Bridgewater-Canistota Independent Telephone Company for Arbitration Pursuant to the Telecommunications Act of 1996 to Resolve Issues Relating to Interconnection Agreements with WWC License, L.L.C.;

In the Matter of the Petition of Golden West Telecommunications Cooperative, Inc. for Arbitration Pursuant to the Telecommunications Act of 1996 to Resolve Issues Relating to Interconnection Agreements with WWC License, L.L.C.;

In the Matter of the Petition of Kadoka Telephone Company for Arbitration Pursuant to the Telecommunications Act of 1996 to Resolve Issues Relating to Interconnection Agreements with WWC License, L.L.C.;

In the Matter of the Petition of Sioux Valley Telephone Company for Arbitration Pursuant to the Telecommunications Act of 1996 to Resolve Issues Relating to Interconnection Agreements with WWC License, L.L.C.;

In the Matter of the Petition of Union Telephone Company of Hartford for Arbitration Pursuant to the Telecommunications Act of 1996 to Resolve Issues Relating to Interconnection Agreements with WWC License, L.L.C.

The Petitioners in the above-referenced proceedings are affiliates and under common control and, for purposes of this Motion, will be collectively referred to as the “Golden West Companies.”

FACTS AND ANALYSIS

This Commission may derive authority to consolidate the above-referenced filings from SDCL § 15-6-42(a) which provides:

[w]hen actions involving a common question of law or fact are pending before the court, it may order a joint hearing or a trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

On May 4, 2006, Vivian Telephone Company filed with this Commission a Petition seeking arbitration of those outstanding issues relating to the negotiations of an interconnection agreement with WWC License, L.L.C. On that same day, each of the six other Golden West Companies filed Petitions seeking arbitration as well. In each of such Petitions, the Golden West Companies advised the Commission of the intention to file this Motion to Consolidate.¹

Prior to the filing of the Petitions, the negotiations which occurred between WWC License, L.L.C. and the Golden West Companies focused on the development of a template interconnection agreement,² which addressed the terms and conditions of interconnection and reciprocal compensation between the respective parties. The proposed terms and conditions of interconnection and reciprocal compensation contained within the template agreement are substantially identical for the Golden West Companies. The principal differences contemplated for each of the Golden West Companies are the various rates and ratios used to calculate reciprocal compensation, which are based upon individual cost studies and the actual traffic studies for each such Company. There may be some additional issues unique to each of the Golden West Companies depending upon the nature of the Responses to be filed herein by WWC License, L.L.C. However, the fundamental terms and conditions and overarching

¹ See Petitions at ¶2.

² The template agreement is attached as Exhibit A to each of the Petitions for Arbitration filed with this Commission by the Golden West Companies.

concepts of the final interconnection agreements will remain the same for each of the Golden West Companies.

The Motions of the Golden West Companies for consolidation are based upon the principals of administrative economy and the commonality of issues in the above-referenced dockets. The principles of judicial or administrative economy relates to “the efficient use of scarce [administrative] resources.” IBP, Inc. v. Jestin USA, 2002 D.S.D. 29, ¶80 (2002) (citation omitted). It involves “considerations of wise [] administration, giving regard to conservation of [administrative] resources and comprehensive disposition of litigation ... and the desirability of avoiding piecemeal litigation.” Id.

Similar factual and legal issues bind the above-referenced Petitions for Arbitration and warrant consolidation. While the arbitration proceedings will result in the execution of seven separate interconnection agreements based upon the template agreement, the issues which remain to be resolved by this Commission in the arbitration proceedings are common to all of the Companies. The unresolved issues are as follows:

1. Is the reciprocal compensation rate for Local Traffic proposed by Telco appropriate pursuant to 47 U.S.C. §252(d)(2)?
2. What is the appropriate Percent InterMTA Use factor to be applied to non-local traffic exchanged between the parties?
3. What is the appropriate manner by which the minutes of use of Local Traffic terminated by the parties, one to the other, should be calculated and billed?

Accordingly, proffered testimony will bear on the same or similar issues for all of the Golden West Companies and the identity of those providing the testimony will likely be the same for all of the Companies. It is anticipated that the same will be true for testimony offered by WWC License, L.L.C. The resolution of the common issues, based upon the evidence and testimony, will govern the substantive manner in which the issues of reciprocal compensation, interMTA traffic, and the method of measurement and billing of Local Traffic will be addressed. At that

point, any individual distinctions between the Golden West Companies, such as the appropriate billing rates, can be easily identified and appropriately addressed by the parties.

Given this Commission's limited time and resources to address seven individual arbitration proceedings, consolidation would allow a determination of all substantive issues in one proceeding, which would avoid unnecessary delays in scheduling and, most significantly, would avoid duplicative or piecemeal litigation of the issues. Moreover, because the parties have always contemplated the development of one template interconnection agreement, no prejudice would inure to WWC License, L.L.C. as a result of consolidation.

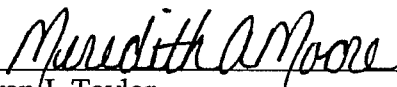
CONCLUSION

Based upon the foregoing Motion for Consolidation, as well as the other Motions brought simultaneously herewith, Vivian Telephone Company respectfully requests that the Petitions for Arbitration filed by the other six Golden West Companies be consolidated with the Petition for pre-hearing procedures and the hearing.

Dated at Sioux Falls, South Dakota, this 12th day of May, 2006.

CUTLER & DONAHOE, LLP
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was mailed by United States mail, First Class, postage prepaid, to Mr. Talbot Wiczorek, of Gunderson, Palmer, Goodsell & Nelson, at 440 Mt. Rushmore Road, Rapid City, South Dakota 57701-5022 on this 12th day of May, 2006.



One of the Attorneys for Petitioner