

SETTLEMENT STIPULATION

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

I. Parties

The parties to this Agreement are as follows:

- 1. Local Exchange Carriers Association (LECA). LECA is comprised of twenty-eight (28) local exchange carriers (LEC's), each of which has authorized LECA to enter into and execute this Stipulation on its behalf. Those members are named on Attachment A.
- 2. Midcontinent Communications, MCImetro Access Transmission Services, LLC and AT&T Communications of the Midwest, Inc., hereinafter referred to as "Intervenors".
- 3. South Dakota Public Utilities Commission (Commission) Staff, hereinafter referred to as "Staff".
- 4. Collectively, all of the above are referred to herein as the "Parties".

II. Settlement Stipulation

On various dates throughout 2004, 2005 and 2006, LECA and its member LEC companies filed with the Commission cost studies for establishment of the LECA intrastate switched access rates, in accordance with ARSD 20:10:27. Intervenors were granted intervention in the 2005 and certain 2006 cost study dockets.

LECA, Staff and Intervenors held several negotiating sessions in an effort to arrive at a joint and acceptable resolution of all of the outstanding cost study dockets. As a result of said negotiations, the Parties have been able to resolve outstanding issues in the 2004, 2005 and 2006 cost study dockets and have entered into this Settlement Stipulation, which, if accepted and ordered by the Commission, will establish the LECA intrastate access rate, pending further Federal Communications Commission (FCC) or Commission action.

III. Purpose

This Stipulation has been executed by the Parties for the sole purpose of resolving the following dockets:

Alliance Communications Cooperative, Inc.	TC04-106
Splitrock Properties, Inc.	TC04-107
City of Brookings Municipal Telephone Department	TC04-112
Cheyenne River Sioux Tribe Telephone Authority	TC04-104
Golden West Telecommunications Cooperative, Inc.	TC04-120
Vivian Telephone Company	TC04-121
Sioux Valley Telephone Company	TC04-122

Bridgewater Canistota Independent Telephone Company	TC04-123
Union Telephone Company	TC04-124
James Valley Cooperative Telephone Company	TC04-117
Kennebec Telephone Company	TC04-118
Local Exchange Carriers Association	TC04-119
Santel Communications Cooperative, Inc.	TC04-116
Stockholm-Strandburg Telephone Company	TC04-114
Valley Telecommunications Cooperative Association	TC04-108
Venture Communications Cooperative, Inc.	TC04-111
West River Telecommunications Cooperative (Hazen)	TC04-125
Alliance Communications Cooperative, Inc.	TC05-083
Beresford Municipal Telephone Company	TC05-092
City of Brookings Municipal Telephone Company	TC05-087
Kennebec Telephone Company	TC05-095
Local Exchange Carriers Association	TC05-096
McCook Cooperative Telephone Company	TC05-094
Tri-County Telcom, Inc.	TC05-098
Midstate Communications, Inc.	TC05-090
Roberts County Telephone Cooperative Association	TC05-093
Santel Communications Cooperative, Inc.	TC05-097
West River Telecommunications Cooperative (Hazen)	TC05-109
Western Telephone Company	TC05-091
City of Brookings Municipal Telephone Company	TC06-076
Local Exchange Carriers Association	TC06-079
Interstate Telecommunications Cooperative, Inc	TC06-048
West River Cooperative Telephone Company (Bison)	TC06-049
Santel Communications Cooperative, Inc.	TC06-068
McCook Cooperative Telephone Company	TC06-069
Tri-County Telcom, Inc	TC06-070
Kennebec Telephone Company	TC06-071
Beresford Municipal Telephone Company	TC06-072
Midstate Communications, Inc.	TC06-073
Western Telephone Company	TC06-074
Roberts County Telephone Cooperative Association	TC06-075

and is applicable to the rates in those proceedings only. The Parties acknowledge that they may have differing views that justify the end result, which they deem to be just and reasonable, and in light of such differences, the Parties agree that the proposals, positions, adjustments made or resolution of any single issue, whether express or implied by the Settlement Stipulation, should not be viewed as precedent setting or as final resolution of intrastate access rates. In consideration of the mutual agreements hereinafter set forth, the Parties agree as follows:

1. Upon execution of this Stipulation, the Parties shall immediately file this Stipulation with the Commission, together with a Joint Motion requesting that the Commission issue an Order approving this Stipulation in its entirety without condition or modification.

2. This Stipulation includes all terms of settlement and is submitted with the condition that in the event the Commission imposes any changes in or conditions to this Stipulation which are unacceptable to any party, this Stipulation shall be deemed withdrawn and shall not constitute any part of the record in this proceeding or any other proceeding nor be used for any other purpose.

3. This Stipulation shall become binding upon execution by the Parties, provided however, that if this Stipulation does not become effective in accordance with Paragraph 2 above, it shall be null, void, and privileged. This Stipulation is intended to relate only to the specific matters referred to herein; no party waives any claim or right which it may otherwise have with respect to any matter not expressly provided for herein; no party shall be deemed to have approved, accepted, agreed or consented to any rate making principle, or any method of cost of service determination, or any method of cost allocation underlying the provision of this Stipulation, or be prejudiced or bound thereby in any other current or future proceeding before the Commission. No party or representative thereof shall directly or indirectly refer to this Stipulation or that part of any Order of the Commission referring to this Stipulation as precedent in any other proceeding before this or any other Commission.

4. Each Intervenor releases and discharges LECA and its individual member companies from any future claims arising out of use of the switched access rate implemented as a result of this Settlement Agreement. LECA and each individual member company releases and

discharges each Intervenor from any future claims arising out of implementation and use of the switched access rates agreed to within the Settlement Agreement.

5. The Parties agree that if this matter is not settled, or if the Commission rejects or alters this Settlement Stipulation, the 2004, 2005, and 2006 cost study dockets will proceed as contested cases before the Commission.

#### **IV. Elements of the Settlement Stipulation**

1. Intrastate Switched Access Rate

The intrastate switched access rate for both originating and terminating minutes of use will be \$0.125.

2. Effective Date/Prospective Application

The \$0.125 rate will become effective thirty-five (35) days after approval by the Commission, giving LECA sufficient time to provide thirty (30) days notice of the new rate to all interexchange carriers. The rate shall be charged on a go-forward basis, and there will be no retroactive adjustment or refund with interest of intrastate switched access rates previously charged by LECA companies, prior to this agreement.

3. Representations

(a) The Parties acknowledge that there is currently pending before the Commission a rulemaking docket (RM05-002) to examine and study the current switched access rules. This Stipulation shall not be construed as agreement by any of the Parties to the methodology and intent of the current switched access rules. The Parties agree to proceed in good faith and with reasonable dispatch into the rulemaking docket.

(b) The terms of this Stipulation shall be binding on all LECA members.

4. Duration

The switched access rate established herein shall remain in effect for three years from the date of implementation of the new rate ("Initial Term") unless a Commission order establishing intrastate switched access rates (either based on rules issued by the Commission, the FCC or otherwise) becomes effective during the Initial Term, in which case this Stipulation will be terminated on the effective date of such Commission Order. Upon completion of the Initial Term, the Stipulation will be renewed for automatic one (1) year renewals ("Renewal Terms") unless notification is provided in writing by any Party at least sixty (60) days in advance of the end date of the Initial Term or Renewal Term.

Throughout the term of this Stipulation, LECA and its member companies are granted a waiver from the requirement of filing cost studies every three years, as required by ARSD 20:10:27:07.

**V. Close of Cost Study Dockets**

The Parties agree that the 2004, 2005 and 2006 cost study dockets will be withdrawn and closed, upon approval of this Stipulation by the Commission.

This Stipulation is entered into this 7<sup>th</sup> day of November, 2006.

LOCAL EXCHANGE CARRIERS ASSOCIATION (LECA)

By: Darla Pollman Rogers  
Its: Attorney

Midcontinent Communications

By: [Signature]  
Its: attorney

MCImetro Access Transmission Services, LLC

By: [Signature]  
Its: Attorney / Agent

AT & T Communications of the Midwest, Inc.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

South Dakota Public Utilities Commission Staff

By: Karen E. Bremer  
Its: staff attorney

AT & T Communications of the Midwest, Inc.

By: Jane Marinich

Its: Director, ART Global Access Management

South Dakota Public Utilities Commission Staff

By: \_\_\_\_\_

Its: \_\_\_\_\_

Attachment A

Alliance Communications Cooperative, Inc.  
Armour Independent Telephone Company  
Beresford Municipal Telephone Company  
Bridgewater Canistota Independent Telephone Company  
Cheyenne River Sioux Tribe Telephone Authority  
City of Brookings Municipal Telephone Company  
City of Faith Telephone Company  
Golden West Telecommunications Cooperative, Inc.  
Interstate Telecommunications Cooperative, Inc  
James Valley Cooperative Telephone Company  
Kennebec Telephone Company, Inc.  
Jefferson Telephone Company  
McCook Cooperative Telephone Company  
Midstate Communications, Inc.  
Roberts County Telephone Cooperative Association  
RC Communications, Inc.  
Santel Communications Cooperative, Inc.  
Sioux Valley Telephone Company  
Splitrock Properties, Inc.  
Stockholm-Strandburg Telephone Company  
Tri-County Telcom, Inc.  
Union Telephone Company  
Valley Telecommunications Cooperative Association, Inc.  
Venture Communications Cooperative, Inc.  
Vivian Telephone Company  
West River Cooperative Telephone Company (Bison)  
West River Telecommunications Cooperative (Hazen)  
Western Telephone Company