



South Dakota Telecommunications Association

South Dakota Telecommunications Association
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March 12, 2010

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

RE: Docket TC10-017 In the Matter of the Application of Neutral Tandem – South
Dakota, LLC to Provide Facilities-Based and Resold Local Exchange and Inter-exchange
Telecommunications Services

Dear Patty:

Enclosed for filing in the above referenced docket you will find the electronic original of a
"SDTA Petition to Intervene."

As is evidenced by the Certificate of Service attached to the Petition, service has been made to
representatives of Neutral Tandem – South Dakota, LLC.

Thank you for your assistance in filing and distributing copies of this Petition.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Coit", written over a circular stamp or seal.

Richard D. Coit
SDTA Executive Director and General Counsel

Applicant intends to serve primarily other carriers and large business customers including ILECs, CLECs, ISPs, paging companies, cellular companies, cable companies, and government and corporate customers providing broadband transmission services. The company has no plans at this time to market services to residential or small businesses.

4. As to the geographic area over which it seeks authority, Neutral Tandem indicates in paragraph 9 of its Application that it intends “to offer services initially in the territory now served by Qwest.” Despite this limitation regarding its immediate service plans, the company indicates in paragraph 15 of its application that it is “seeking statewide authority to provide local exchange services (i.e. authority that includes all service areas of rural telephone companies) The Application also states that Neutral Tandem “does not plan to meet the service obligations imposed pursuant to § 20:10:32:15 and accordingly, seeks a waiver pursuant to § 20:10:32:18.”

5. Given that Neutral Tandem is seeking a statewide certificate of authority for local exchange telecommunications services, the provisions of SDCL § 49-31-70 and ARSD 20:10:32:04 are applicable and require that notice of the Application be provided to other, already certified local exchange carriers. Neutral Tandem has failed to indicate whether or not it has complied with this requirement.

6. All of the SDTA member companies operate as “rural telephone companies” for purposes of the Federal Telecommunications Act of 1996 and also the state laws enacted in 1998 addressing local exchange competition (SDCL § 39-31-69, et. seq.).

7. Because the Application filed by Neutral Tandem seeks statewide certification for local exchange services, all of the SDTA member local exchange carriers (LECs) have an interest in and stand to be impacted by this proceeding. SDTA seeks intervention herein based on the individual interests of each of its member ILECs and based on their common interests to ensure

that the rural safeguard provisions contained in federal and state laws are properly considered and applied. With respect to the Application of Neutral Tandem, SDTA has a number of concerns.

8. SDTA first questions whether the Application, insofar as it relates to certification for local exchange services, is deficient for failing to provide all of the information required by the Commission's administrative rules. There is also reason to question whether the request for certification in rural service areas is premature. As noted, the Application indicates that the company's immediate plans are to provide services within the Qwest exchange areas and, apparently, no ILEC other than Qwest has been contacted concerning the provisioning of interconnection services or facilities. Further, and most importantly, Neutral Tandem is requesting pursuant to ARSD § 20:10:32:18 a waiver related to the additional service obligations imposed on competitive local exchange carriers entering rural service areas pursuant to SDCL § 49-31-73 and ARSD §§ 20:10:32:15 thru 20:10:32:17. The provisions of ARSD § 20:10:32:18 setting forth the standards and process applicable to the waiver process read as follows:

20:10:32:18. Waiver of eligible telecommunications carrier service requirements. A telecommunications company seeking authority to provide local exchange services in the service area of a rural telephone company may petition the commission for a waiver from having to satisfy the eligible telecommunications service requirements as set forth in 47 U.S.C. § 214(e)(1) (September 10, 1998) and applicable federal regulations. The commission may grant the waiver if, after notice and opportunity for hearing, it is determined by the commission that granting the waiver does not adversely impact universal service, that quality of service shall continue, and that it is in the public interest. The telecommunications company requesting the waiver shall have the burden to prove by a preponderance of the evidence that granting the waiver is consistent with these standards.

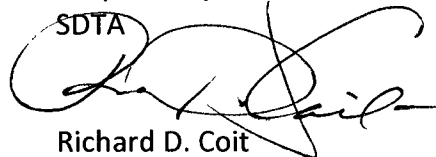
Under these provisions, Neutral Tandem as the applicant, has the burden to prove that granting it a waiver of the additional ETC service obligations imposed in South Dakota's rural service areas would "not adversely impact universal service," would not impair the "quality of service" and that it would otherwise be consistent with the "public interest." SDTA believes there is insufficient information provided in the Application to determine whether granting the requested waiver would be justified and consistent with the established legal standards.

9. Based on all of the foregoing, SDTA alleges that it is an interested party in this matter and would seek intervening party status

Dated this 12th day of March, 2010.

Respectfully submitted:

SDTA

A handwritten signature in black ink, appearing to read "Richard D. Coit", is written over the printed name and title.

Richard D. Coit

Executive Director and General Counsel

CERTIFICATE OF SERVICE

I hereby certify that an original of the Petition to Intervention, dated March 12, 2010, filed in PUC Docket TC10-017 was served upon the PUC electronically, directed to the attention of:

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

A copy was also sent by e-mail and/or US Postal Service First Class mail to each of the following individuals:

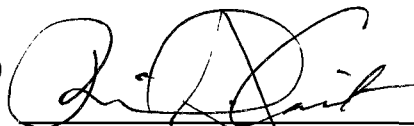
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Dated this 12th day of March, 2010



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