



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILING :
BY AVENTURE COMMUNICATION :
TECHNOLOGY, L.L.C. d/b/a : DOCKET NO. TC11-010
AVENTURE COMMUNICATIONS' :
ACCESS TARIFF NO. 3 :

**OBJECTIONS AND RESPONSES TO AT&T'S FIRST SET OF DISCOVERY
REQUESTS**

Aventure Communication Technology, L.L.C. ("Aventure") for its objections and responses to AT&T's First Set of Discovery Requests, states:

GENERAL OBJECTIONS

Aventure's general objections are incorporated into each of its responses to the discovery requests below as though fully set forth therein.

1. **Relevancy.** Aventure objects to AT&T's discovery requests to the extent they seek information that is not relevant to any of the issues in this action, and is not reasonably calculated to lead to the discovery of evidence that is relevant or admissible.

2. **Unduly Burdensome.** Aventure objects to AT&T's discovery requests to the extent that they are unduly burdensome and oppressive, where the assembly and preparation of a response to them would require an unduly burdensome search for information, especially with respect to such information that may readily be obtained by AT&T from other sources or that is of little or no benefit with respect to the issues in this proceeding.

3. **Overly Broad/Without Proper Limit.** Aventure objects to AT&T's discovery requests to the extent that they are overly broad, duplicative, oppressive, beyond the scope of permissible discovery, or seek information without proper limit as to the subject matter or time period.

4. **Trade Secret Privilege.** Aventure objects to AT&T's discovery requests to the extent they seek trade secrets and other proprietary business information, including, but not limited to, information related to customer lists, agreements with non-parties and business plans.

5. **Equally Available.** Aventure objects to the requests to the extent that they seek documents that are already in the possession or control of AT&T or its agents or representatives, or that are equally available to AT&T as they are to Aventure. This includes documents and information that have been produced by Aventure in IUB Docket No. FCU-2007-02 and documents and information produced by Aventure to AT&T and other parties in the "Tier 1" cases now pending before Judge Gritzner in the United States District Court for the Southern District of Iowa.

6. **Right to Supplement.** Aventure reserves the right to supplement, amend or correct its responses upon discovery during the course of this action of further responsive information.

7. AT&T's Discovery Requests, specifically request numbers 1-1 through 1-67 are virtually identical to discovery requests served on Aventure by AT&T in a pending Iowa proceeding, Docket No. FCU-2011-0002. The Iowa proceeding is not a tariff investigation docket but rather a docket in which the issues are a just and reasonable rate for high volume access service and a show cause order on Aventure's Certificate of Public Convenience and

Necessity. Those issues are in no way involved in this South Dakota proceeding which simply involves investigation of Aventure's proposed intrastate tariff in South Dakota. Accordingly, discovery requests 1-1 through 1-67 seek information neither relevant nor reasonably calculated to lead to the discovery of admissible evidence in this proceeding. Said discovery requests are overbroad and harassing. Said discovery requests purport to require Aventure to again respond to those requests with respect to information that pertains to Aventure's Iowa service which has no relevance to this proceeding. Aventure's South Dakota Certificate is in good standing and there is no pending challenge to Aventure's South Dakota Certificate. This docket does not involve any issue or investigation concerning high volume access service or access stimulation and the Iowa discovery directed to those issues is inapplicable here.

RESPONSES

1-1 to 1-67. See general objections 1-7 above. As Aventure advised in its initial response to the Order docketing Aventure's tariff for investigation, Aventure, at this time, has no South Dakota customers or facilities. Aventure has no contract or agreements to provide service in South Dakota to any potential customer. To the extent discovery requests 1-1 through 1-67 seek information specific to South Dakota, Aventure's response is: not applicable.

1-68. Aventure currently has no facilities in South Dakota. Aventure anticipates that its switched access service in South Dakota will be functionally equivalent to the switched access service provided by the incumbent local exchange company. Aventure anticipates that it will originate and terminate calls for local exchange customers or end users. This is functionally equivalent to what incumbent local exchange companies provide.

1-69. Aventure changed the definition of "end user" in the suspended South Dakota Tariff No. 3 in order to maintain consistency with Aventure's FCC Tariff No. 3 filed January 14,

2010 with the FCC and considered "deemed lawful" under FCC rules as of January 30, 2010.

Aventure has now filed an additional amendment to its South Dakota Tariff No. 3 removing the last sentence of the definition of "end user".

1-70. Aventure has no current customers or end users in South Dakota. Aventure understands that South Dakota rules do not specify that end users must "pay for service". The quoted language in Request No. 1-70 says nothing about paying for service.

1-71. See general objections 1 - 7. Aventure has no current end users in South Dakota. Without waiving those objections, Aventure states that all of Aventure's customers or end users pay, at a minimum, a monthly common line charge and USF charge. All Aventure's customers are billed these customers monthly.

1-72. See general objections 1 - 7. Aventure has no South Dakota end users at this time. All of Aventure's customers or end users are billed line charges . There are no customers who are not billed for service.

1-73. See general objections 1 - 7 above. Aventure has no South Dakota end users and the method of call delivery for end users in Iowa is inapplicable to this proceeding.

1-74. See general objections 1 - 7 above. Aventure has no end users in South Dakota. End user arrangements or agreements in Iowa are inapplicable to this proceeding.

1-75. See general objections 1 - 7. Aventure has no end users in South Dakota. End user arrangements in Iowa are inapplicable to this proceeding.

1-76. See general objections 1 - 7. Aventure has no customers or end users in South Dakota. Aventure's billing arrangements with Iowa customers are inapplicable to this proceeding.

1-77. See general objections 1 through 7. Aventure has no customers or end users in South Dakota. Aventure's switching functions for its Iowa customers and end users are inapplicable to this proceeding.

1-78. The Company believes this requirement balances the need for obtaining current information from Customers without imposing an undue burden.

1-79. The Company does not provide service in South Dakota and therefore does not have any customers who purchase access service for South Dakota originated or terminated traffic.

1-80. The Company relied upon the assistance of an industry consultant to develop its proposed tariff. Based upon the consultant's experience, a 50% default is a common default factor employed by many carriers in the industry. Further, in the absence of any data about the jurisdictional split of traffic, a 50/50 split is the least subjective assumption. No specific documentation was relied upon.

1-81. Not applicable. The Company has not assessed switched access charges to any interexchange carriers for South Dakota originated or terminated traffic.

1-82. Section 2.13.1 does not reference termination charges.

1-83. There is no Section 2.24.2(A) in the proposed tariff.

1-84. No.

1-85. The Company's tariff was designed to mirror its interstate tariff, which includes this provision and which has been deemed lawful by effect of § 204(a)(3) of the Communications Act. To the extent that provision is in conflict with the A.R.S.D., Section 2.10.4 H has been added to the tariff to ensure that the South Dakota rules or law would apply with respect to disputes regarding intrastate access charges.

1-86. The Company's tariff was designed to mirror its interstate tariff, which includes this provision and which has been deemed lawful by effect of § 204(a)(3) of the Communications Act. To the extent that provision is in conflict with the A.R.S.D., Section 2.10.4 H has been added to the tariff to ensure that the South Dakota rules or law would apply with respect to disputes regarding intrastate access charges.

1-87. The Company's tariff was designed to mirror its interstate tariff, which includes this provision and which has been deemed lawful by effect of § 204(a)(3) of the Communications Act. To the extent that provision is in conflict with the A.R.S.D., Section 2.10.4 H has been added to the tariff to ensure that the South Dakota rules or law would apply with respect to disputes regarding intrastate access charges.

1-88. The Company's tariff was designed to mirror its interstate tariff, which includes this provision and which has been deemed lawful by effect of § 204(a)(3) of the Communications Act. To the extent that provision is in conflict with the SDCL, Section 2.10.4 H has been added to the tariff to ensure that the South Dakota rules or law would apply with respect to disputes regarding intrastate access charges.

1-89. Section 2.10.5 does not reference "any action instituted by the Customer." Rather, it states: "In the event the Company pursues a claim in Court or before any regulatory body arising out of the Customer's refusal to make payment pursuant to this tariff, the Customer will be liable for the payment of the Company's reasonable attorneys' fees expended in collecting those unpaid amounts". The Company's tariff was designed to mirror its interstate tariff, which includes this provision and which has been deemed lawful by effect of § 204(a)(3) of the Communications Act.

1-90. The Company's tariff was designed to mirror its interstate tariff, which includes this definition and which has been deemed lawful by effect of § 204(a)(3) of the Communications Act. Many carriers have filed access tariffs at both the FCC and in state jurisdictions that include this definition and that have been accepted and/or approved by the respective regulatory bodies.

1-91. The Company's tariff was designed to mirror its interstate tariff, which includes this definition and which has been deemed lawful by effect of § 204(a)(3) of the Communications Act. Many carriers have filed access tariffs at both the FCC and in state jurisdictions that include this or a similar definition and that have been accepted and/or approved by the respective regulatory bodies. For instance, NECA Tariff F.C.C. No. 5 includes a very similar definition of Access Tandem:

"The term 'Access Tandem' denotes a Telephone Company or centralized equal access provider switching system that provides a concentration and distribution function for originating or terminating traffic between end offices and a customer designated premises." (NECA Tariff F.C.C. No. 5, 9th Revised Page 2-6.)

LUNDBERG LAW FIRM, P.L.C.

By: /S/ PAUL D. LUNDBERG

**PAUL D. LUNDBERG, 3403
600 FOURTH STREET, SUITE 906
SIOUX CITY, IA 51101
712/234-3030
712/234-3034 (FAX)
E-MAIL: pauill@terracentre.net**

**ATTORNEY FOR
AVENTURE COMMUNICATION
TECHNOLOGY, L.L.C.**

Copy to:

Olinger, Lovald, McCahren & Reimers, P.C.
William M. Van Camp
P.O. Box 66
Pierre, SD 57501

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501

Ms. Kara Semmler
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501

Mr. Chris Daugaard
Staff Analyst
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501

Ms. Sharon Thomas
Consultant
Technologies Management, Inc.
2600 Maitland Center Parkway, Suite 300
Maitland, FL 32751

Jason D. Topp
Corporate Counsel
Qwest Communications Company
200 South Fifth St., Room 2200
Minneapolis, MN 55402

Ms. Kathryn Ford
Davenport Evans Hurwitz & Smith LLP
P.O. Box 1030
Sioux Falls, SD 57104

Talbot J. Wiczorek
Gunderson Palmer Goodsell & Nelson
P.O. Box 8045
Rapid City, SD 57709

Brett Koenecke
May Adam Gerdes and Thompson, LLP
P.O. Box 160
Pierre, SD 57501

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause to each of the attorneys of record herein at their respective addresses disclosed on the pleadings on August 9, 2011.

BY: U.S. Mail FAX
 Hand Delivered Overnight Courier
 Certified Mail ECF

/S/ PAUL D. LUNDBERG