

**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 for Approval of)
its Switched Access Services Tariff No. 3)
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**VERIZON'S MOTION TO INTERVENE AND
REQUESTS TO OPEN AN INVESTIGATION AND
SUSPEND TARIFF DURING THE INVESTIGATION**

Comes now Verizon¹ and moves the Commission for an order granting intervention in the above captioned matter. In support of the motion, Verizon makes the following statements showing its pecuniary interest in the matter and its understanding of Aventure's business model.

Verizon alleges that Aventure Communication Technology, L.L.C. ("Aventure") is engaged in various schemes to artificially inflate switched access traffic that it purports to terminate, solely in order to take advantage of relatively high intrastate switched access rates. This is a form of unlawful arbitrage that distorts markets, hinders competition and, ultimately, harms consumers.

Until now, Aventure appears to have limited its operations to Iowa, where it has been at the center of various complaint proceedings and rulemakings before the Iowa Utilities Board, which in turn has found this type of access stimulation scam to be unlawful.² But, through its

¹ As used herein, "Verizon" refers collectively to MCI Communications Services, Inc. d/b/a Verizon Business Services and Cellco Partnership and its subsidiaries providing wireless services in the state of South Dakota, collectively d/b/a Verizon Wireless.

² See *Qwest Communications Corp. v. Superior Tel. Coop.*, 2009 WL 3052208, Docket No. FCU-07-2, Final Order (Iowa Utilities Bd., Sept. 21, 2009), *recon. den'd*, 2011 WL 459685 (Iowa Utilities Bd., Feb. 4, 2011).

March 17, 2011 tariff filing with the Commission, Aventure now seeks to authorize its traffic pumping activities in this state. Verizon asks the Commission to reject this effort to expand traffic pumping into South Dakota, open an investigation into Aventure's proposed tariff pursuant to SDCL Chapter 49-31-12.4(1), and suspend that tariff pending completion of that investigation pursuant to SDCL Chapter 49-31-12.4(2). Verizon asks that it be granted intervention in this docket in order to defend its interests.

I. AVENTURE'S SOUTH DAKOTA TARIFF FILING

Aventure admittedly does not have any *bona fide* customers or operations in South Dakota.³ While it has suggested to the Commission that it has filed its tariff "as part of its plan to develop its network in South Dakota and provide service to South Dakota customers ..." that will "aid[] economic development in the state,"⁴ that certainly has not been the focus of Aventure's business in Iowa. To the contrary, Aventure's primary objective thus far has been to aid its own economic development through traffic pumping arbitrage that actually harms other carriers and consumers.

As Qwest Communications Company ("Qwest") explained in its motion to intervene in this proceeding and to suspend Aventure's tariff, the tariff Aventure filed with this Commission is fraught with numerous objectionable provisions designed to legitimize any future traffic pumping activities that Aventure might decide to conduct in South Dakota.⁵ Rather than repeat that discussion, Verizon hereby incorporates Qwest's specific objections by reference. But, suffice it to say, the tariff Aventure has filed with this Commission is virtually identical to the

³ See *Aventure Communication Technology, L.L.C.'s Resistance to Motion to Intervene and Request to Open an Investigation and Suspend Tariff during the Investigation* at 1 ("Currently Aventure has no customers or telephone traffic in South Dakota.").

⁴ *Id.*

⁵ See Qwest Communication Company's Motion to Intervene and Requests to Open an Investigation and Suspend Tariff during the Investigation at 3-8.

one it filed with the Iowa Utilities Board and that the Board suspended pending further investigation. The Commission should do the same here.

Indeed, because Aventure's proposed tariff effectively would legitimize traffic pumping in South Dakota, it threatens to affect and potentially interfere with any efforts by the Commission to address traffic pumping as part of its switched access charge rulemaking and whatever rulings the Commission may make in the traffic pumping complaint proceedings currently pending before it.⁶ For all these reasons, the Commission should suspend Aventure's tariff until it first can conduct an appropriate investigation.

II. VERIZON'S MOTION TO INTERVENE

Verizon provides both wireline long distance and wireless telecommunications services in South Dakota, and potentially would be subject to whatever access charges Aventure lawfully might charge in this state. The rates and terms of Aventure's access tariff therefore will, if allowed to become law, directly and materially affect Verizon's operations in South Dakota.

At this time, Verizon is intervening to participate in the proceedings, but does not anticipate that it will unduly broaden the issues in the proceeding. While other carriers will respond to Aventure's proposed tariff, no other party will represent Verizon's unique interests. Because this is the only proceeding in which Aventure's proposed tariff will be reviewed, intervention in this proceeding is the only means by which Verizon's interest can be protected.

Verizon's participation can assist the Commission in making an informed decision. Verizon has participated in a number of other, related proceedings with Aventure and is familiar both with Aventure's business model and the associated legal and public policy issues.

⁶ See *In re South Dakota Network, LLC against Sprint Communications Company L.P. Regarding Failure to Pay Intrastate Centralized Equal Access Charges and to Immediately Pay Undisputed Portions of SDN's Invoices/In re Third Party Complaint of Sprint Communications Company L.P. against Splitrock Properties, Inc., et al.* (Docket No. TC09-098) and *In re Sprint Communications Co. L.P. v. Native American Telecom, LLC* (Docket No. TC10-26).

Accordingly, Verizon's intervention is appropriate in this case.

III. CONCLUSION

For the foregoing reasons, Verizon asks the Commission to grant its intervention in this proceeding, open an investigation into Aventure's proposed tariff, and suspend that tariff pending completion of the investigation.

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CERTIFICATE OF SERVICE

Brett Koenecke of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 8 day of April 2011, he electronically filed or mailed by United States mail, first class postage thereon prepaid, a true and correct copy of the foregoing in the above captioned action to the following at their last known addresses:

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