

Docket Number: TC12-028
Subject Matter: Second Data Request
Request to: Knology of the Plains
Request from: South Dakota Public Utilities Commission Staff
Date of Request: April 13, 2012
Responses Due: April 20, 2012

2-1) In response to data request 1-2, even a minimum amount of VoIP-PSTN traffic in South Dakota will require a formula that contains a Company PVU factor. Staff cannot recommend a tariff revision that does not account for Knology's VoIP-PSTN traffic. A SDPUC approved tariff you could refer to is the Verizon tariff:

<http://www.puc.sd.gov/Dockets/Telecom/2011/TC11-093.aspx>

Knology can update the filing to include the language Verizon uses in section 2.3.3.4.3.2 of the tariff recommended by staff. Please confirm that the following language would meet the PUC's concerns.

2.9.C.3 If the customer does not furnish the Company with a PVU pursuant to the preceding paragraph 1, the Company will calculate a fact representing the percentage of the Company's total intrastate and interstate access MOU in the State that the Company originates or terminates on its network in IP format. This PVU-V shall be based on information, such as the number of the Company's retail VoIP subscriptions in the state, traffic studies, actual call detail or other relevant and verifiable information.

2-2) In response to data request 1-3, please refer us to where in the FCC order it states that the application of interstate rates does not apply to VoIP-PSTN **terminating** traffic. It has been staff's understanding that interstate rates should be applied to all traffic that terminates and/or originates in IP format.

Since the tariff changes that were submitted contain refer to terminating MOU, we are assuming that the Staff is referring to the lack of "originating language" rather than "terminating language" as noted above. Although the FCC order does not state specifically that the application of interstate rates does not apply to VoIP-PSTN originating traffic, neither does

it state specifically that interstates rate do apply. The FCC order specifically addresses the transition of terminating rates to interstate levels. The Order intentionally left in place intrastate and interstate originating access rates, subject only to a cap, until the Commission could develop the factual record that it conceded was missing at present, and then adopt a "measured transition" for these charges in a new rulemaking. Various petitioners agree with Knology's position on this issue and have filed with the FCC asking for clarification that the order was not intended to displace intrastate originating access rates for VoIP-PSTN originated calls that are terminated over VoIP facilities. The fundamental error of some service providers is to read the VoIP-PSTN section of the order in isolation as though the rest of the order does not exist. Though the Commission expressed its belief that a bill-and-keep framework should "ultimately" govern originating access, the Commission explicitly stated that it was "limiting reform to terminating access charges at this time." The Commission expressly conceded that it legally could not act to reduce originating access rates at this time, given the essential need for a "measured transition" to bill-and-keep, the absence of the factual record that would be needed to justify the appropriate transition, and the lack of an articulated legal rationale for reducing originating access rates.

2-3) For your service area, would a default customer factor tied to the amount of VoIP-PSTN traffic Knology provides in South Dakota be more appropriate?

Yes. See response to 2-1 above.

2-4) In response to data request 1-5, would Knology be willing to limit customer verification requests to a maximum of two times per year, as the commission has yet to approve a tariff which allows a company to request customer verification up to four times per year.

Knology would agree with limiting the verification to two times a year if the application of a new factor is also limited to twice yearly. Knology should have the opportunity to verify that any change in the PVU factor submitted by a customer is correct.

2-5) In response to data request 1-6, the intent of the FCC order was to have the changes effective January 1, 2012. Thus, will Knology agree to retroactively apply, to January 1, 2012, any initial PVU factors submitted within 30 days of the approval of the tariff revisions?

If a carrier disputes the lack of retroactivity via the dispute resolution process, Knology would be willing to apply the factors retroactively to January 1, 2012