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November 13, 2013

Ms. Patricia Van Gerpen *via electronic filing*
Executive Director
South Dakota Public Utilities Commission
Capitol Building, 1st floor
500 E. Capitol Ave.
Pierre, SD 57501

Re: TC13-116: MCC Telephony of the Midwest, LLC Revisions to Access Services Tariff (S.D. P.U.C. Tariff No. 1) – **Response to Staff Data Request**

Dear Ms. Van Gerpen,

On October 10, 2013, MCC Telephony of the Midwest, LLC ("MCC Telephony") filed proposed revisions to its South Dakota intrastate access services tariff. The primary purpose of these revisions is to maintain the Company's switched access rates at benchmark levels (vis a vis the incumbent, Qwest Communications) and to ensure parity between MCC Telephony's interstate and intrastate terminating switched access rates. In response to a data request issued by Staff, MCC Telephony provides the following responses:

1-1) Confirm that the company does not have an intrastate rate for Tandem Switching.

At this time, MCC Telephony does not provide tandem switching functionality and therefore does not tariff a rate for this service.

1-2) Explain why the company feels it is allowed to raise its switched access rates pursuant to 47 CFR 51.911(b)(6) and (7).

Concisely, MCC Telephony did not make this filing specifically pursuant to 47 CFR 51.911 (b)(6) or (7). Those provisions are part of FCC Rule Section 51.911, adopted by the FCC in its November 2011 access charge reform order[1] to outline how competitive local exchange carriers ("CLEC") should proceed with the initial two-year terminating switched access rate step-down. 47 CFR 51.911(b)(6) notes that, with one exception, Section 51.911 does not require or authorize CLECs to increase intrastate access rates when they are lower than the equivalent interstate rates. The exception, 47 CFR 51.911(b)(7), provides for CLECs to increase certain intrastate switched access rates in connection with their terminating rate parity adjustments on or before July 1, 2013. Section 51.911 does not address the reform phases subsequent to July 2013, except to note that the benchmark rule[2] for CLEC access rates will continue to apply. This stands in contrast to the FCC Rules outlining the access reform process for incumbent local exchange carriers, consisting of additional multi-year rate reductions until terminating switched access rates reach a bill-and-keep level.[3]

In the ICC/USF Order, the FCC clarified that CLEC switched access rates would be reformed largely through the benchmark requirement.[4] The initial two-year step-down served to bring CLEC interstate terminating and intrastate terminating switched access rates into parity, to prevent further jurisdictional gamesmanship. (As the FCC noted, disparities between interstate and intrastate access rates – in either direction – offered opportunity for rate manipulation with resulting harms to consumers.) After July 1, 2013, with the CLECs' interstate and intrastate terminating rates at parity and organized in mirrored rate structures, the incumbents' further rate reductions and the benchmark rule would ensure that CLEC rates also decrease to bill-and-keep levels.

Set within the broader framework of the FCC's access reform policy intentions, the parity requirement must be seen as a continuing obligation for carriers. It would make no sense to have mandated industry-wide collaboration to bring carriers' interstate

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1 See Report and Order in WC Docket Nos. 10-90, etc., FCC Release No. 11-161 (Nov. 18, 2011) ("ICC/USF Order").

2 47 C.F. R. § 61.26.

3 See 47 C.F.R. §§ 51.907, 51.909 (respectively addressing requirements for price cap carriers and rate-of-return carriers).

4 ICC/USF Order at para. 807 ("Application of our access reforms will generally apply to competitive LECs via the CLEC benchmarking rule.").

and intrastate terminating switched access rates into parity as of July 1, 2013 if, thereafter, they could simply fall back out of parity within weeks or months. MCC Telephony's proposed South Dakota tariff revisions reflect the rates in the Company's federal access tariff, as most recently revised in August 2013. These revisions are intended to ensure that the Company's access rates remain compliant with the FCC's benchmark rule and that its intrastate terminating switched access rates are set at parity with their equivalent interstate rates.

Please let us know if you have any further questions.

Sincerely,

/s/ Winafred Brantl

Winafred Brantl
Counsel for MCC Telephony of the Midwest, LLC

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