

April 16, 2013

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

**RE: Docket TC13-027, In the Matter of the Consideration of Eligible
Telecommunications Carrier Certification Requirements**

Dear Ms. Van Gerpen:

The South Dakota Telecommunications Association (“SDTA”) submits this letter to provide written comment in response to the Commission’s “Order Opening Docket; Order Setting Comment Deadline” issued in the above referenced matter on March 28th. As mentioned in that Order, SDTA provided comment at the Commission meeting on March 26th asking that the Commission consider certain waivers and or revisions to its annual reporting requirements for eligible telecommunications carriers (ETCs). The purpose of this letter is to supplement SDTA’s earlier comments and renew the request for prompt Commission action related to the annual ETC reporting requirements set forth in ARSD §§ 20:10:32:52 thru 20:10:32:56.

Under the PUC administrative rules, ETC’s are required to make an annual certification filing with this Commission by June 1st (ARSD §§ 20:10:32:52 and 20:10:32:54). Through this annual certification filing, ETCs provide the information used by this Commission to separately certify to the Federal Communications Commission (FCC) that each ETC operating in South Dakota is using federal high cost support “for the provision, maintenance, and upgrading of facilities and services for which the support is intended.” The federal certification requirement imposed on state commissions is established under 47 CFR § 54.314. The earliest annual deadline for state certifications required by this rule is October 1st.

As this Commission is aware, the FCC in its process of reforming the federal high cost funding and inter-carrier compensation mechanisms has now adopted its own extensive

annual ETC reporting requirements. These new federal reporting requirements are found in 47 CFR § 54.313. Under that rule, ETCs are required to provide to the FCC most of the information already required under the state administrative rules and to also provide information addressing several other items (i.e. price/rate information for offered voice and broadband services, corporate organization and affiliate information, financial information, etc.). In addition, most ETCs (including all rate-of-return (ROR) regulated ETCS) are under other provisions found in 47 CFR § 54.202 required to provide the FCC with a five-year “service improvement plan”. This initial five-year service improvement plan is to be followed with annual “progress reports” scheduled to become part of the annual federal ETC reports beginning July 1 of 2014.

As SDTA communicated at the March 26th Commission meeting, the FCC’s USF and ICC regulatory reforms are creating extraordinary additional compliance burdens for all of the SDTA rural telephone company members. The FCC has adopted voluminous new and different regulations over the past few years and is currently requiring an unprecedented number of annual reports/filings from rural ROR carriers. Given all of the additional federal reporting burdens, there is a need for this Commission to minimize the burdens caused by similar state reporting requirements. In particular, this Commission can lessen reporting burdens by coordinating filing timelines and/or by eliminating inconsistencies between state and federal requirements, and SDTA urges the Commission to take such action. To the extent that the Commission can eliminate or minimize instances where companies have to prepare and/or file identical or similar information, or submit similar data at different times, the reporting process can be made easier for affected carriers. As noted, in many respects the current state administrative rules and federal ETC rules seek the same information and certification statements from carriers. In addition, under the new federal rules ETCs are required to provide a copy of their federal filing to the state commissions (47 CFR § 54.313(i)). On a go-forward basis, this Commission will have access to all ETC report information filed with the FCC and will be positioned to substantially rely on that information as the basis for its annual certification required under 47 CFR § 54.314. Even though the due date for the federal filing (July 1st) comes one month later than the current state ETC reporting date (June 1st), the Commission will still have sufficient time, after July 1st, to review and consider the copied federal information in its certification process.

At this time, SDTA specifically asks that the Commission consider:

(1) waiving and postponing the June 1st ETC certification filing date that is set forth in ARSD § 20:10:32:52 and changing that date for this year to July 1st, so that it is consistent with the federal filing date; and

(2) waiving several of the specific ETC “certification requirements” that are set forth in ARSD § 20:10:32:54, to the extent that they are inconsistent with the federal ETC certification requirements.

With regard to the June 1st date, SDTA requests that it be waived and postponed for one month, until July 1st. This would be positive for carriers because under the federal rules ETCs must now submit a five (5) year service improvement plan, in contrast to the two (2) year service quality improvement plan required under ARSD §§ 20:10:32:43.02 and 20:10:32:54(2). Although the FCC’s 5 year plan requirement, as described in the 47 CFR § 54.202 rule provisions, is awaiting OMB approval, the FCC specifically stated in its Order of March 5th (DA 13-332) that ROR carriers must “file five year plans in 2013.” SDTA member companies would prefer to avoid any duplicate or wasteful efforts associated with preparing and submitting two different service improvement plans -- a 2 year plan for this Commission and a 5 year plan for the FCC. While there is a chance that between now and July 1 the FCC will reconsider and take action delaying the 5 year plan requirement, as of this time, SDTA member companies are moving ahead with the preparation of their individual 5 year plans, with the intention of filing them on or before July 1st. Accordingly, at this time, rather than simply acknowledging the differences between state and federal requirements and insisting that ETCs prepare two different plans, SDTA urges the Commission to postpone its current June 1st filing date to July 1st and to accept, for state service improvement plan purposes, the 5 year plan currently required by the FCC. If between now and July 1st, it becomes apparent that the 5 year plan requirement will be set aside for this calendar year, the Commission can reconsider and reinstate the 2 year plan described in the state administrative rules.

Postponing the June 1st date would also be beneficial because at the present time the FCC’s comment process regarding the official form to be used by rate-of-return (ROR) carriers in making their federal ETC filing is still ongoing. The due date for final comments on “FCC Form 481” (which in draft form includes 21 pages and an additional instructional document of 34 pages) is April 26th. Given this comment schedule, it is reasonable to speculate that, at the earliest, no final Form 481 will be adopted by the FCC and received by ROR ETCs until the end of May. As already noted, under the FCC rules a copy of all the South Dakota ETCs federally filed reports, including the completed FCC Form 481, must be provided to this Commission. Many of the state ETC requirements will be addressed with the information included in Form 481. Postponing the June 1st date for the state filing will allow SDTA members to properly focus their limited resources toward timely completing the federal form.

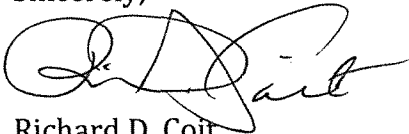
SDTA would further ask the Commission to waive several of the current state ETC reporting requirements set forth in ARSD § 20:10:32:54. In regards to the State ETC certification requirements, only the rule provisions found in ARSD 20:10:32:54 (1), (2), (5),

(8) and (9) contain either additional or differently stated requirements. As to those subsections, SDTA urges the Commission to grant all waivers necessary to make the rule provisions consistent with the new federal requirements. All of the state rules found in ARSD §§ 20:10:32:51 thru 20:10:32:56 were adopted, initially, in order to comply with the then current federal rules relating to ETCs and their use of federal high cost funding. The federal rules have now changed, but none of the state administrative rules have yet been revised to more closely match the new federal requirements. Under the present circumstances, until the state administrative rules are amended and made more consistent with the federal regulations, granting waivers is necessary and expressly authorized by ARSD § 20:10:32:56. By exercising its express waiver authority, the Commission can duly recognize the federal regulatory changes and appropriately adjust any state ETC reporting requirements that now appear burdensome, duplicative, or unnecessary.

Further, it should be noted that granting the waivers requested will not negatively affect the Commission's ability to carry out its ETC certification obligation in accordance with 47 CFR § 54.314. Under the new federal rules, substantial additional information is required of ROR ETCs and the Commission will upon receiving a copy of the federal filing, on or before July 1st, be even better positioned than in prior years to certify that ROR ETCs in the state are using federal high cost funding as intended.

In closing, SDTA and its member companies thank the Commission for promptly addressing this matter and for the opportunity to provide input.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Coit", written over a faint, illegible background.

Richard D. Coit

SDTA Executive Director and General Counsel