

Docket Number: TC15-070
Subject Matter: First Data Request
Request to: X5 OpCo LLC
Request from: South Dakota Public Utilities Commission Staff
Date of Request: November 24, 2015
Responses Due: December 8, 2015

1-1. Provide a description of the organizational structure of X5 OpCo LLC, pursuant to ARSD 20:10:24:02(2).

Please refer to the discussion provided in item 2 to the Company's application, viz. "Applicant, X5 OpCo LLC is a privately-held corporation duly organized and existing under and by virtue of the laws of the State of Delaware on October 14, 2014. Applicant is a wholly owned subsidiary of X5 Holdings LLC ("X5 Holdings") which, in turn, is majority owned and controlled by NewSpring Holdings LLC ("NewSpring"). NewSpring is a limited liability company organized under the laws of the State of Delaware. NewSpring is a private equity fund that seeks to partner with successful business owners and management teams to grow profitable businesses."

1-2. It appears that X5 OpCo LLC goes by a different name on its website. Please provide the name under which the applicant will provide interexchange services, pursuant to ARSD 20:10:24:02(3).

As noted in the Company's Application, the services will be provided by "X5 OpCo LLC." In March 2015, X5 OpCo LLC acquired the assets of X5 Solutions, Inc., the name appearing on the current web site. The web site is planned to be updated.

1-3. Pursuant to ARSD 20:10:24:02(13), how will the applicant make available to *any person* information concerning the applicant's current rates, terms, and conditions for all of its telecommunications services.

Information regarding company services is available on the Company's web site, via customer service, or via a Company sales representative. Customer service may be contacted via email, telephone, or in writing. Please refer to Application items 13 and 10.

1-4. Confirm that notification of any materially adverse change to any rate, term, or condition of any telecommunications service being provided to the customer is made at least thirty days in advance of the change, pursuant to ARSD 20:10:24:02(14).

Applicant so confirms. Applicant proposes to provide service to commercial subscribers under service agreements that clearly establish service rates, terms and conditions. Please refer to Application item 14.

1-5. Provide copies of any company brochures used to assist in the sale of services, pursuant to ARSD 20:10:24:02(16).

No brochures have been prepared. Please refer to Application item 16.

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- 1-6. Refer to ARSD 20:10:24:02(16), explain how the X5 Solutions Referral Partner Program differs from multilevel marketing. Source: <http://www.x5solutions.com/agent-partners/>**

The Company's referral program is intended to generate sale leads. "Partners" are compensated for sales made directly by Company sales representatives. All sales are made by company sales employees or established sales agents who maintain a direct relationship with the Company.

- 1-7. On page 7, answer (19) of the application, the applicant "requests that any rule that has been deemed inapplicable to competitive interexchange carriers and waived for other interexchange carriers applicants, be waived for Applicant." Pursuant to ARSD 20:10:24:02(19), provide a written request for waiver of those rules the applicant believes to be inapplicable.**

Applicant's request is one of parity with other competitive interexchange carriers in South Dakota. Applicant does not have access to information regarding those rules the Commission has waived for competing interexchange carriers with specificity, which are a matter of record with the Commission.

- 1-8. On page 9 of the application, the verification of the applicant refers to "full knowledge of the Kansas Corporation Commission's jurisdiction affection interexchange service providers and will comply with the applicable requirements of the Commission." Please confirm that this statement should say the South Dakota Public Utilities Commission.**

Applicant so confirms and regrets the oversight.

- 1-9. Refer to page 3, answer (9) of the application: The applicant explains that "the Applicant's balance sheet incorporates the financial operations of an entity whose assets were acquired under X5 OpCo." When were these assets acquired? What entity was acquired?**

Assets of X5 Solutions, Inc. and its affiliate X5 PDX LLC were acquired in March 2015. Neither company had operations in South Dakota.

- 1-10. Please refer to Exhibit B: Provide the balance sheet of the applicant, without incorporating the assets of an entity acquired by X5 OpCo.**

X5 OpCo LLC was formed specifically for the purpose of acquiring and combining existing telecommunications enterprises under a single company. X5 Solutions, Inc. and its affiliate X5 PDX LLC were the first companies to be acquired. As X5 OpCo LLC has no other operations, a balance sheet that does not incorporate the acquired assets cannot be developed.