

**BEFORE THE  
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

---

<b>IN THE MATTER OF THE</b>	)	<b>RESPONSES TO STAFF’S DATA</b>
<b>APPLICATION OF SOUTH DAKOTA</b>	)	<b>REQUESTS</b>
<b>NETWORK, LLC FOR APPROVAL OF</b>	)	<b>(FIRST SET)</b>
<b>WAIVER OF SWITCHED ACCESS COST</b>	)	
<b>STUDY</b>	)	<b>TC20-029</b>

---

South Dakota Network, LLC, (“SDN”), by and through its attorney, responds to Staff’s Data Requests (First Set) as follows:

**1.1. Provide an update of the pending case before the United States Court of Appeals for the District of Columbia and the issues at hand related to the case. Provide any relevant docket numbers and/or FCC orders.**

On April 29, 2019, SDN filed a petition for review of *In the Matter of South Dakota Network, LCC F.C.C. No. 1*, 34 FCC Rcd 1525 (rel. March 1, 2019; copy of FCC Order attached), in the United States Court of Appeals for the District of Columbia. A copy of the petition for review, styled *South Dakota Network, LLC v. FCC*, Case No. 19-1094 (D.C. Cir.), is also attached. Specifically, SDN petitioned for review of the FCC’s findings that (a) it is a CLEC for the purpose of applying the benchmark rule; (b) it must file the lower of its cost based-rate or its benchmark (essentially applying dual regulation to SDN, as it did Aureon); and (c) that CenturyLink is the appropriate benchmark for SDN’s equal access service. On July 18, 2019, the Court granted a motion to hold the case in abeyance pending its decision in *AT&T Corp. v. FCC*, Case No. 18-1007, et al, ID.C. Cir.).

Case No. 18-1007 is the consolidated proceeding of various petitions for review of *In the Matter of AT&T Corp v. Iowa Network Services, Inc. d/b/a Aureon Network Services*, 32 FCC Rcd 9677 (rel. November 8, 2017), also attached. Oral argument was held in Case No. 18-1007 on May 4, 2020, and the parties are awaiting further action by the Court. Accordingly, SDN’s case (Case No. 19-1094) remains in abeyance.

**1.2. SDN mentions the outcome of the case will likely affect SDN’s intrastate access rates. Is such affect likely to cause an increase or decrease in intrastate access rates? Please explain and provide analysis where applicable.**

SDN does not intend to increase its intrastate originating or terminating access rate even though it is likely a cost study would show that an increased rate is appropriate. The above-named cases will dictate how SDN must determine its

intrastate access rates on a go-forward basis. If SDN is not allowed to determine its intrastate access rate based on a cost study, the likely affect would be a decrease in SDN's intrastate terminating access rate.

**1.3.1 At the conclusion of the pending case, does SDN anticipate filing a switched access cost study?**

No. Even though it is likely a cost study would show that an increased rate is appropriate, SDN does not intend to increase its intrastate originating or terminating rates. Therefore, SDN does not anticipate filing a switched access cost study.

Dated this 24<sup>th</sup> day of July, 2020.

RITER ROGERS, LLP



Darla Pollman Rogers

319 South Coteau

P.O. Box 280

Pierre, SD 57501

Telephone: (605) 224-5825

[dprogers@riterlaw.com](mailto:dprogers@riterlaw.com)

Attorney for South Dakota Network, LLC.

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of Responses to Staff's Data Requests (First Set) was sent by electronic notice to the following:

Ms. Patricia Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
500 E. Capitol Ave.  
Pierre, SD 57501  
[patty.vangerpen@state.sd.us](mailto:patty.vangerpen@state.sd.us)

Ms. Kristen Edwards  
Staff Attorney  
South Dakota Public Utilities Commission  
500 E. Capitol Ave.  
Pierre, SD 57501  
[Kristen.edwards@state.sd.us](mailto:Kristen.edwards@state.sd.us)

Mr. Joseph Rezac  
Staff Analyst  
South Dakota Public Utilities Commission  
500 E. Capitol Ave.  
Pierre, SD 57501  
[joseph.rezac@state.sd.us](mailto:joseph.rezac@state.sd.us)

Dated this 24<sup>th</sup> day of July, 2020.

  
\_\_\_\_\_  
Darla Pollman Rogers