

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE APPLICATION OF)
CELERITY NETWORKS, LLC FOR A CERTIFICATE)
OF AUTHORITY TO PROVIDE LOCAL EXCHANGE) TC21-125
TELECOMMUNICATIONS SERVICES IN THE)
STATE OF SOUTH DAKOTA)**

SDTA Petition to Intervene

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.

2. All SDTA member companies operate as "rural telephone companies" for purposes of the Federal Telecommunications Act of 1996 and also the state laws enacted in 1998 addressing local exchange competition (SDCL § 39-31-69, et. seq.).

3. On or about Celerity Networks, LLC (hereinafter referenced as "Celerity" or "Applicant") filed an Application with the Commission, pursuant to the provisions of ARSD §§ 20:10:32:03 and 20:10:24:02, seeking authority to provide local exchange telecommunication services throughout the entire state of South Dakota.

4. Based on the geographic scope of Celerity's Application, SDTA believes that all its member local exchange carriers (LECs) have an interest in and stand to be impacted by this proceeding.

5. Under both federal and state law several rural safeguards have been established to assist in the preservation and advancement of universal service within high cost rural service areas. One such safeguard is found in 47 U.S.C. § 253(f) and SDCL § 49-31-73. Under these statutes, states are authorized to condition competitive entry into rural telephone company service areas by imposing certain minimum telecommunications service obligations. The obvious intent of these statutes is (1) to ensure that competing carriers make their service offerings available to all consumers, including higher cost consumers within rural service areas; and (2) to prevent or minimize the adverse impacts that "cream-skimming" or "cherry-picking" practices are likely to have on efforts to preserve affordable universal service.

6. This Commission long ago adopted administrative rules to implement this rural safeguard. ARSD § 20:10:32:15 of the Commission's rules specifically provides, "if a telecommunications company is seeking authority to provide local exchange service in the service area of a rural telephone company, the company shall satisfy the service requirements imposed on eligible telecommunications carriers pursuant to 47 U.S.C. § 214(e)(1) and applicable federal regulations. After notice and opportunity for hearing, these service requirements are to be imposed on the alternative local service provider throughout a geographic area as determined by the Commission, unless a waiver is granted pursuant to § 20:10:32:18." As prescribed under §20:10:32:18, the Commission may only grant such a waiver if, "after notice and opportunity for hearing, it is determined by the commission that granting the waiver does not adversely impact universal service, that quality of service shall continue, and that it is in the public interest." It is also stated in the rule that the "telecommunications company requesting the waiver shall have the burden to prove by a preponderance of the evidence that granting the waiver is consistent with these standards."

7. SDTA seeks intervention herein based on the individual interests of each of its member ILECs and based on their common interests to ensure that the rural safeguard provisions contained in federal and state laws are carefully considered and incorporated into any Commission Order that may result from Celerity's Application.

8. SDTA is an interested party in this matter and seeks intervening party status.

Dated this 5 day of January 2022.

Respectfully submitted:

/s/ Kara Semmler
Kara C. Semmler
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CERTIFICATE OF SERVICE

I hereby certify that an original of the Petition for Intervention, dated January 5, 2022, filed in PUC Docket TC21-125 was served upon the PUC electronically, directed to the attention of:

Ms. Patty Van Gerpen, Executive Director
South Dakota Public Utilities Commission
patty.vangerpen@state.sd.us

A copy was also sent by e-mail to each of the following individuals:

Ms. Amanda Reiss
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Dated this 5 day of January 2022

/s/ Kara Semmler
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