

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

=====

IN THE MATTER OF THE ESTABLISHMENT
OF SWITCHED ACCESS RATES FOR THE
LOCAL EXCHANGE CARRIERS ASSOCIATION

TC05-096

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Transcript of Proceedings
September 27, 2005

ORIGINAL

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BEFORE THE PUBLIC UTILITIES COMMISSION,
GARY HANSON, CHAIRMAN
BOB SAHR (by telephone), VICE CHAIRMAN
DUSTY JOHNSON, COMMISSIONER

COMMISSION STAFF
Rolayne Ailts Wiest
John Smith
Karen Cremer
Sara Greff
Greg Rislov
Harlan Best
Keith Senger
Dave Jacobson
Michele Farris
Jim Mehlhaff
Tina Douglas
Heather Forney
Pam Bonrud

Reported By Cheri McComsey Wittler, RPR, CRR

PRECISION REPORTING
L I M I T E D

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1 CHAIRMAN HANSON: TC05-096.
2 Mr. Gerdes.
3 MR. GERDES: Mr. Chairman, members
4 of the Commission, I'm the same Dave Gerdes that
5 took a lot of your time not too long ago. And I
6 think we've pretty thoroughly ventilated most of
7 the arguments on whether or not the merits should
8 require that intervention be granted.
9 And I would simply say that this, of course,
10 is the docket that establishes the LECA tariff
11 based upon the cost studies that we just talked
12 about and we, of course, would ask to be -- to
13 intervene in this docket as well, which, of course,
14 then puts the whole package together, so to speak.
15 The one additional item here is the suspension
16 of the operation of the tariff, and we would submit
17 that we have made a formal filing on that, and we
18 have asked that the tariff be suspended. And in
19 support of that we'd say first that this is
20 something that's pretty routine for the Commission
21 to do, but that secondly that refund sounds great
22 theoretically but it's difficult to put together a
23 refund plan and we would submit that it would be
24 much better simply to refund the -- or, excuse me,
25 simply to suspend the tariff until we've resolved

1 APPEARANCES BY TELEPHONE
2 Talbot Wiczorek
3 Colleen Sevold
4 Erin Jordahl
5 Doug Eidahl
6 David Chorzeempa
7 Jeff Larson
8 Denny Lav
9 Suzie Rao
10 Jeff Decker
11 Mike Bradley
12 Brian Everson
13 Marlene Bennett
14 Larry Hettinger
15 Peter Rasmussen
16 =====
17 TRANSCRIPT OF PROCEEDINGS, held in the
18 above-entitled matter, at the South Dakota State
19 Capitol, Room 412, 500 East Capitol Avenue, Pierre,
20 South Dakota, on the 27th day of September 2005,
21 commencing at 9:30 a.m.
22
23
24
25

1 the issues that are present and then that the -- an
2 appropriately constructed tariff be approved.
3 CHAIRMAN HANSON: Thank you. Is
4 there anyone else wishing to give testimony on item
5 number 2?
6 MS. POLLMAN ROGERS: Yes. My name
7 is Darla Rogers, and on behalf of LECA and its
8 member companies, I don't believe that we have
9 addressed that portion of item number 2 concerning
10 suspension of the rates.
11 And we would oppose that suspension. As noted
12 previously, if there are additional parties, the
13 whole process is delayed, and we really need to
14 have the rates in effect. I'm not trying to
15 testify here, but just to quantify, we had
16 initially -- LECA had filed a docket or petition to
17 have this Commission waive the requirement under
18 the rule of using historical test period for
19 minutes of use only.
20 We ultimately withdrew that docket, but the
21 difference that occurred as a result of that when
22 we amended our filings and used historical test
23 minutes of use resulted in a 5 percent decrease in
24 the revenue requirement, which approximates about
25 \$154,000 per month. So that's the -- I'm just

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1 trying to quantify what happens if you grant this.
2 The rates are suspended for a minimum of 120 days,
3 is it, and then maybe 160, and if the docket is not
4 completed in that time, then I believe the statute
5 provides the rates can go into effect.

6 But we're talking about a lot of -- a lot of
7 dollars to the local exchange carriers. And those
8 losses could be even greater if the minutes of use
9 continue to decline and as you extend it out
10 farther and farther and farther away from that
11 historical test year, that's what happens.

12 I would also point out that the IXCs are
13 unharmed because the statute does allow for you,
14 the Commission, to order a refund and also to order
15 interest. And I recognize what Mr. Gerdes says
16 with regard to a refund plan and a lot of that
17 depends on the amount of the refund. I mean, when
18 we're talking about the refund, for example, for
19 the TC03-108 docket, which was actually for two
20 months that that rate was in effect, we're talking
21 a total of less than \$25,000.

22 If you handled -- I mean, how you approve
23 refunding that is certainly up to the Commission,
24 but to issue a bunch of checks to a bunch of
25 carriers in less than a dollar amount, certainly

6

1 seems to be very confusing as opposed to what we
2 have done in other instances and that would be to
3 reduce the revenue requirement of the next filing.

4 So there's a lot of discretion and a lot of
5 latitude that the Commission has. But I think that
6 the IXCs can be unharmed in the process. So for
7 these reasons, because of the magnitude of the
8 effect on the local exchange carriers and the fact
9 that the IXCs can by statute be held harmless, we
10 would urge you to resist the Motion to suspend the
11 rates.

12 Thank you.

13 CHAIRMAN HANSON: Is there anyone
14 else wishing to give testimony on this item? We'll
15 turn to staff.

16 MS. CREMER: Thank you.
17 Karen Cremer from staff. Staff really, you know,
18 in the past has supported the -- allowing the rate
19 to go into effect, and I believe that was TC03-108,
20 and I can't remember the other one. But anyway, in
21 this -- the problem staff is having now is we've
22 never seen the LECs come forward with a plan. We
23 have no idea what they're doing with their money or
24 how they're planning on refunding that money. And
25 we asked the question. We did not get a response

7

1 so we went ahead filed asking that the suspension
2 be granted.

3 Mrs. Rogers was right when she said the
4 Commission has the ultimate authority to approve
5 that plan. So we would like them to come forth
6 with some sort of plan on how they plan to do that.
7 Because she said on one hand, well, we don't want
8 to write a dollar check. I can't say that anybody
9 would disagree with her there. So they have chosen
10 how to use the next round of money to refund. And
11 I don't think that's appropriate.

12 I think they need to come forward with those
13 plans, and they need to get those approved by the
14 Commission and until that time or we can see how
15 they're planning on doing their plan I believe you
16 should suspend the -- grant Midcontinent's request
17 for suspension of the tariff.

18 Thank you.
19 CHAIRMAN HANSON: Thank you. Are
20 there any questions?

21 If not, is there a Motion? I have a Motion on
22 the table. I will second that Motion.

23 VICE CHAIRMAN SAHR: And I concur.

24 MR. CHORZEMPA: What is the Motion
25 on the table?

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1 CHAIRMAN HANSON: The Motion was
2 given by Commissioner Johnson just prior to the
3 TC05-096 reading. It granted the intervention to
4 Midcontinent Communications, MCImetro, and it
5 provided that the Commission suspend the operation
6 of the tariff for 120 days.

7 MR. CHORZEMPA: I thought I also
8 heard him say allow rates to go into effect subject
9 to refund with interest.

10 CHAIRMAN HANSON: Was that part of
11 your motion?

12 COMMISSIONER JOHNSON: It was. I
13 don't know that it should have been. I will
14 restate the Motion that we grant intervention and
15 suspend the operation of the tariff for 120 days.

16 CHAIRMAN HANSON: Thank you. I will
17 second that Motion.

18 VICE CHAIRMAN SAHR: And I concur.

19 MR. VAN CAMP: I believe the
20 original Motion allowed for intervention of AT&T of
21 the Midwest as well.

22 COMMISSIONER JOHNSON: Yes. The
23 Motion is to grant intervention to all three
24 parties.
25

1 STATE OF SOUTH DAKOTA)
 2 :SS CERTIFICATE
 3 COUNTY OF HUGHES)
 4

5 I, CHERI MCCOMSEY WITTLER, a Registered
 6 Professional Reporter and Notary Public in and for the
 7 State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed
 9 shorthand reporter, I took in shorthand the proceedings
 10 had in the above-entitled matter on the 27th day of
 11 September 2005, and that the attached is a true and
 12 correct transcription of the proceedings so taken.

13 Dated at Pierre, South Dakota this 20th day
 14 of October 2005.

15
 16
 17 
 18 Cheri McComsey Wittler,
 19 Notary Public and
 20 Registered Professional Reporter
 21
 22
 23
 24
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