

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FCC ORDER ESTABLISHING NEW)
DEADLINES FOR IMPLEMENTATION OF INTRALATA)
DIALING PARITY BY LOCAL EXCHANGE CARRIERS)

ORDER APPROVING DIALING PARITY)
IMPLEMENTATION PLANS)
TC99-030)

On March 23, 1999, the Federal Communications Commission (FCC) issued an order establishing new deadlines for implementation of intraLATA dialing parity by local exchange carriers (LECs). In the Matters of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996; Petition of Southwestern Bell Telephone Company, Pacific Bell, and Nevada Bell for Expedited Declaratory Ruling on Interstate IntraLATA Toll Dialing Parity or, in the Alternative, Various Other Relief, CC Docket No. 96-98, FCC 99-54 (released March 23, 1999). The order states that "[n]o later than April 22, 1999, all LECs must file intraLATA toll dialing parity plans with the state regulatory commission for each state in which the LEC provides telephone exchange service if a plan has not yet been filed with such state commission. Once a state commission has approved a plan, the LEC must implement its plan no later than 30 days after the date on which the plan is approved." Id. at & 7. If the state commission has not acted on the plan by June 22, 1999, the LEC must file the plan with the Common Carrier Bureau of the FCC. Id.

At its March 30, 1999, meeting, the Public Utilities Commission (Commission) opened a docket in order to review intraLATA toll dialing plans and established a procedural schedule that would allow other parties to file written comment on the LECs' intraLATA toll dialing plans. No parties objected to this proposal. At its April 1, 1999, meeting, the Commission issued guidelines for LECs to follow when developing their intraLATA toll dialing plans. On the issue of cost recovery, the Commission decided that if a LEC believes that it needs cost recovery, the LEC should file for cost recovery in a separate proceeding before the Commission in accordance with FCC rules.

On April 23, 1999, the Commission faxed notice that the following companies had filed intraLATA toll dialing parity plans: Heartland Telecommunications Company of Iowa on April 20, 1999; Accent Communications, Inc. on April 20, 1999; Splitrock Properties, Inc. on April 21, 1999; Jefferson Telephone Company on April 21, 1999; Venture Communications, Inc. on April 21, 1999; Hanson County Telephone Company on April 21, 1999; Hanson Communications, Inc. d/b/a McCook Telecom on April 21, 1999; Vivian Telephone Company d/b/a Golden West Communications, Inc. on April 21, 1999; Stockholm-Strandburg Telephone Co. on April 22, 1999; AT&T Communications of the Midwest, Inc. on April 22, 1999; Midco Communications on April 22, 1999; Heartland Communications, Inc. on April 22, 1999; Mobridge Telecommunications on April 22, 1999; West River Telecommunications Cooperative on April 22, 1999; Dakota Telecommunications Group, Inc., DTG Community Telephone, Inc. and Dakota Telecom, Inc. on April 22, 1999; Stateline Telecommunications, Inc. on April 22, 1999; and U S WEST Communications, Inc. on April 22, 1999.

At its May 12, 1999, meeting and its June 8, 1999, meeting, the Commission approved carrier notification letters. At its June 8, 1999, meeting, the Commission also requested additional information from the parties.

At its June 15, 1999, meeting, the Commission considered whether to order any changes to the filed plans. The Commission voted to require the following changes be made to the plans:

- (1) If a customer currently has an interLATA PIC freeze, the LEC may not automatically extend that freeze to the intraLATA PIC. According to FCC rules, separate authorizations must be received for each service for which a carrier freeze is requested. 47 C.F.R. ' 64.1190(c). Thus, a customer's intraLATA PIC may be frozen only if the customer separately authorized the freeze in accordance with ' 64.1190;
- (2) Customers shall be allowed at least one intraLATA carrier PIC choice free of charge during the first 60 days following implementation;
- (3) If an existing or new customer contacts the LEC to pick or change its intraLATA carrier, the LEC may not market its products or services on that same call but may answer customer initiated questions;
- (4) Directory assistance calls are not required to be subject to presubscription;
- (5) The Commission will allow a thirty day window for solicitation of customers prior to implementation and a LEC may wait until the date of implementation to accept intraLATA PICs;
- (6) If a new customer does not indicate a preference for a carrier, the LEC must comply with 47 C.F.R. ' 51.209(c) which prohibits the automatic assignment of a customer's intraLATA toll traffic;

(7) A LEC shall send notice of the availability of dialing parity regardless of whether it has received any Access Service Requests;

(8) In addition to its customer notification letter, each LEC shall provide a list of companies the customer can choose from and the companies' toll free numbers;

(9) In the customer notification letter, if the customer wants to change its existing carrier, the customer shall be told to contact the carrier it wants to change to instead of the LEC;

(10) The first sentence and fourth paragraph of AT&T's customer notification letter are not competitively neutral and shall be revised or deleted;

(11) Each plan shall address the issue of payphones.

Each LEC that filed a plan that did not meet these requirements was required to re-file a new plan consistent with these requirements by Friday, June 18, 1999. In addition, the Commission denied U S WEST's request to reclassify its toll services from emerging competitive to fully competitive, finding that in order to reclassify a service, the procedures as outlined in SDCL 49-31-3.2 must be followed. The Commission further ordered the LECs that have failed to notify the Commission of whether they currently provide intraLATA dialing parity to submit written notification prior to June 22, 1999.

The following companies submitted revised plans at various times throughout the process: AT&T Communications of the Midwest, Inc.; Accent Communications, Inc.; Dakota Telecommunications Group, Inc., DTG Community Telephone, Inc., and Dakota Telecom, Inc.; Hanson Communications, Inc. dba McCook Telecom; Hanson County Telephone Company; Heartland Communications, Inc.; Heartland Telecommunications Company of Iowa; Jefferson Telephone Company; Midco Communications; Mobridge Telecommunications Co.; Splitrock Properties, Inc.; Stateline Telecommunications, Inc.; Stockholm-Strandburg Telephone Co.; U S WEST Communications, Inc.; Venture Communications, Inc.; Vivian Telephone Company d.b.a. Golden West Communications, Inc.; and West River Telecommunications Cooperative. FirsTel, Inc. filed an intraLATA toll dialing plan on June 18, 1999.

On June 18, 1999, U S WEST filed a Motion for Rehearing and Reconsideration, Submission of Revised Dialing Parity Plan Under Reservations of Rights, and Advisement Regarding Customer Notification. On June 18, 1999, AT&T filed a Request for Approval of Amended Dialing Parity Implementation Plan and Request for Waiver.

At its June 22, 1999, meeting, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL 49-31-81 and the Federal Telecommunications Act of 1996, specifically 47 U.S.C. " 251 and 252. The Commission first voted unanimously to reconsider the three issues as requested by U S WEST. On rehearing, the Commission took comments on the three issues as presented by U S WEST which concerned Commission ordered requirements one, three, and eight. Requirement one stated that a customer's intraLATA PIC may only be frozen if the customer separately authorized the freeze in accordance with 47 C.F.R. ' 64.1190. U S WEST stated that this prohibition is not in the public interest. The Commission unanimously voted to deny U S WEST's request to change this requirement. The FCC rule clearly requires a separate authorization for an intraLATA PIC freeze.

Requirement three stated that "[i]f an existing or new customer contacts the LEC to pick or change its intraLATA carrier, the LEC may not market its products or services on that same call but may answer customer initiated questions." After listening to comments from the parties, the Commission unanimously voted to deny U S WEST's request to change this requirement. The Commission finds that this requirement is consistent with U S WEST's dialing parity plan filed on April 22, 1999. In that plan under the heading "Business Practices New Customers," U S WEST stated that if the customer requests "information relative to U S WEST toll products and services, U S WEST will respond to the customer's request." The Commission finds that requirement three allows U S WEST to respond to customer requests for additional information concerning the LEC's products and services.

Requirement eight states that "[i]n addition to its customer notification letter, each LEC shall provide a list of companies the customer can choose from and the companies' toll free numbers." After listening to comments, the Commissioners unanimously voted to clarify the requirement by replacing the words "in addition to" with "along with." This change is to clarify that the requirement for toll free numbers only applies to the attachment to the customer notification letter that must contain the list of companies the customer can choose from.

AT&T requested a waiver of requirement six which states that "[i]f a new customer does not indicate a preference for a carrier, the LEC must comply with 47 C.F.R. ' 51.209(c) which prohibits the automatic assignment of a customer's intraLATA toll traffic." AT&T requested a waiver because it is unable to technically comply until early 2000. The Commission voted unanimously to deny the waiver, finding that the FCC would be the appropriate regulatory agency to consider the waiver since it is an FCC rule.

The Commission then considered whether to grant approval of the following dialing parity implementation plans: AT&T Communications of the Midwest, Inc.; Accent Communications, Inc.; Dakota Telecommunications Group, Inc., DTG Community Telephone, Inc., and Dakota Telecom, Inc.; FirsTel, Inc.; Hanson Communications, Inc. dba McCook Telecom; Hanson County Telephone Company; Heartland Communications, Inc.; Heartland Telecommunications Company of Iowa; Jefferson Telephone

Company; Midco Communications; Mobridge Telecommunications Co.; Splitrock Properties, Inc.; Stateline Telecommunications, Inc.; Stockholm-Strandburg Telephone Co.; U S WEST Communications, Inc.; Venture Communications, Inc.; Vivian Telephone Company d.b.a. Golden West Communications, Inc.; West River Telecommunications Cooperative.

Commission Staff recommended that the following plans be approved subject to the companies filing revisions to address the following issues:

- (1) Dakota Telecommunications Group, Inc., DTG Community Telephone, Inc., and Dakota Telecom, Inc. should confirm that their customer notification letters will include the toll free numbers of the listed companies the customer can choose from;
- (2) FirsTel, Inc. should file a revised plan showing compliance with requirements six, seven, eight, nine, and eleven as ordered by the Commission and a list of the exchanges it serves and corresponding NXX prefixes;
- (3) Midco Communications should file a revised customer notification letter with consistent references to the name of the company and also file a list of the exchanges it serves and corresponding NXX prefixes.

The Commission voted unanimously to approve the plans subject to Staff's recommendations as listed above. In addition, the Commission finds that since the Commission decided that cost recovery issues will be decided in separate dockets, approval of any plan does not constitute approval of any proposed rates or proposed recovery of costs associated with the provisioning of intraLATA dialing parity.

It is therefore

ORDERED, that U S WEST's request to change requirements one and three is denied and requirement eight is clarified as stated above; and it is

FURTHER ORDERED, that AT&T's request for waiver of requirement six is denied; and it is

FURTHER ORDERED, that the Commission approves the dialing parity implementation plans of the companies listed above subject to Staff's recommendations on three of the plans.

Dated at Pierre, South Dakota, this 22nd day of June, 1999.

CERTIFICATE OF SERVICE	BY ORDER OF THE COMMISSION:
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	_____ JAMES A. BURG, Chairman
By: _____	_____ PAM NELSON, Commissioner
Date: _____	_____ LASKA SCHOENFELDER, Commissioner
(OFFICIAL SEAL)	

