

LAW OFFICES  
**BLOOSTON, MORDKOFKY, DICKENS, DUFFY & PRENDERGAST, LLP**

BENJAMIN H. DICKENS, JR.  
JOHN A. PRENDERGAST  
GERARD J. DUFFY  
RICHARD D. RUBINO  
MARY J. SISAK  
D. CARY MITCHELL  
SALVATORE TAILLEFER, JR.

2120 L STREET, NW  
WASHINGTON, DC 20037  
  
(202) 659-0830  
FACSIMILE: (202) 828-5568

AFFILIATED SOUTH AMERICAN OFFICES

ESTUDIO JAUREGUI & ASSOCIATES  
BUENOS AIRES, ARGENTINA

HAROLD MORDKOFKY  
OF COUNSEL

EUGENE MALISZEWSKYJ  
ENGINEERING CONSULTANT

ARTHUR BLOOSTON  
1914 – 1999

**WRITER'S CONTACT INFORMATION**

sta@bloostonlaw.com  
202-828-5562

**VIA ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington, DC 20054

RE: Interstate Telecommunications Cooperative, Inc. and CenturyLink Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary, of the Commission's Rules  
CC Docket No. 96-45

Dear Ms. Dortch:

On behalf of Interstate Telecommunications Cooperative, Inc. and CenturyLink, please find attached hereto a Joint Petition for Study Area Waiver. If you have any questions about this matter, please contact the undersigned.

Sincerely,



Salvatore Taillefer, Jr.

/encl

**Before the  
FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Interstate Telecommunications Cooperative, Inc.	)	CC Docket No. 96-45
and CenturyLink Petition for Waiver of the	)	
Definition of "Study Area" Contained in Part 36,	)	
Appendix-Glossary, of the Commission's Rules	)	
	)	

**JOINT PETITION FOR STUDY AREA WAIVER**

Interstate Telecommunications Cooperative, Inc. (ITC) and CenturyLink (CenturyLink) (collectively, Petitioners) hereby request waiver of the definition of "study area" contained in the Appendix-Glossary of Part 36 of the Commission's Rules. The purpose of this waiver is address a recently-discovered discrepancy between the Study Area Boundary Map and actual practice, by permitting CenturyLink to remove a small portion of its study area, and permitting ITC to add the same. Neither CenturyLink nor the sole customer in the affected area objects to the amendment. Attachment 1 sets forth the legal description of the affected area. Attachment 2 is a map showing the affected area and the corrected boundaries.

Petitioners respectfully request that the Commission find this Petition is appropriate for streamlined treatment and expeditiously issue a public notice seeking comment, so that it can go into effect in accordance with Section 36.4(a) of the Commission's Rules. No new issues of law are raised by the Petition, and the supporting facts and circumstances comply with the standard for waiver set forth in the *USF/ICC Transformation Order*.

## **Background**

Collins Colony is a farming facility which is currently included within CenturyLink's territory on the Study Area Boundary Map, but is actually served by ITC's Willow Lake Exchange, which ITC acquired from US West in 1996. It has recently come to ITC's attention that the Study Area Boundary Map does not reflect the inclusion of Collins Colony, despite that Collins Colony is served by ITC. Petitioners therefore seek to amend the Study Area Boundary Map to include the Collins Colony in ITC's study area (Study Area Code: 391654), and so make it consistent with actual practice.<sup>1</sup> This amendment will not harm any customers, as Collins Colony has consented to continue receiving service from ITC<sup>2</sup> and, upon approval, ITC will continue to provide Collins Colony with the full range of local exchange services provided to all residents of its territory.

CenturyLink is an incumbent local exchange carrier (ILEC) that serves South Dakota, as well as other states. CenturyLink is not under common ownership or control with ITC. In addition to its continued service in other states, after completion of the proposed transaction, CenturyLink will continue to serve the other areas of South Dakota that it currently serves and will retain its study area for those exchanges.

ITC is a South Dakota cooperative corporation that is not under common ownership or control with CenturyLink. ITC is a pre-February 8, 1996 incumbent local exchange carrier that presently serves a total of 32 exchanges and 1 CLEC (approximately 13,900 access lines). That portion of ITC's service area included in NECA Study Area No. 391654 includes 26 exchanges with 11,130 access lines. ITC is a "rural telephone company" under the definition in Section 3(37) of the Communications Act and Sections 51.5 and 54.5 of the Commission's Rules, and

---

<sup>1</sup> See Attachment 2.

<sup>2</sup> See Attachment 3.

has filed the required self-certification with the Commission. ITC is a rate-of-return carrier that operates on a cost basis, and that has never operated any of its exchanges on a price cap basis. ITC is an Issuing Carrier in NECA Tariff F.C.C. with respect to both common line and traffic sensitive interstate access charges for its South Dakota study area, and has issued its own ITC Telephone Company (in South Dakota) Tariff F.C.C. No. 1 with respect to traffic sensitive interstate access charges for its South Dakota study area.

### **Study Area Waiver**

Petitioners seek a waiver of the frozen study area boundaries between their serving areas in South Dakota. The Commission froze study area boundaries as of November 15, 1984 to prevent telephone holding companies from setting up high cost exchanges within their existing service territories as separate companies in order to maximize high cost support. In its November 2011 *USF/ICC Transformation Order*, the Commission revised its standards for reviewing study area petitions to the following two-prong standard: (i) the state commission having regulatory authority over the transferred exchanges does not object to the transfer; and (ii) the transfer must be in the public interest.

### **State Commission Approval**

The South Dakota Public Utilities Commission ("SDPUC") is the only state commission having regulatory authority over the Transfer Area. On June 20, 2017, ITC filed an application with the SDPUC requesting an Amended Certificate of Authority to approve the revision to its revise its Exchange Service Territory to include Collins Colony. By the Order Granting Amended Certificate of Authority and Granting Waivers, TC17-023, issued July 28, 2017, the

SDPUC indicated its consent to an Amended Certificate of Authority in connection with this matter<sup>3</sup>

### **Public Interest Benefits**

As the Commission stated in its *USFIICC Transformation Order*, the three factors to be considered in determining whether a study area waiver is in the public interest are: (1) the number at lines at issue; (2) the projected universal service fund cost per line; and (3) whether such a grant would result in consolidation of study areas that facilitates reductions in cost by taking advantage of economies of scale, i.e., reduction in cost per line due to the increased number of lines. In this case, the number of lines is minimal – only eight. Further, ITC has already been receiving USF support for these eight lines; accordingly, there will be no change in its cost-per-line numbers.

ITC and CenturyLink are simply seeking to amend the Study Area Boundary Map to accurately reflect the current practice. Allowing the Petitioners to do so is in the public interest because it would allow ITC to continue to provide service to Collins Colony, and would improve the accuracy of the Commission's service territory data.

### **Conclusion**

Petitioners have met their burden of proving that the proposed study area boundary waiver: (a) is supported by the only state commission that has regulatory authority over the Transfer area; and (b) will be in the public interest, particularly since it affects only eight access line that ITC has already been serving and receiving support for years. Therefore, the

---

<sup>3</sup> See Attachment 4.

Commission is respectfully requested to waive its frozen study area boundaries to allow the affected area to be deleted from CenturyLink's existing South Dakota study area and added to ITC's South Dakota study area.

**CENTURYLINK**

By: Kent Blick  
Name: Kent Blickensderfer  
Title: State Director of Legislative Affairs  
Date: September 18, 2017

Respectfully submitted,

**INTERSTATE  
TELECOMMUNICATIONS  
COOPERATIVE, INC.**

By: BK  
Name: BRYAN K. ROTH  
Title: GM/CEO  
Date: 9-20-17

**Legal Description of Affected Area**

The following property will be removed from CenturyLink's service area and added to the ITC service area:

The South One-Half (1/2) of Section Thirty-Two (32), Township One-Hundred-Thirteen (113) North, Range Fifty-Seven (57) West, Clark County, South Dakota, according to the recorded plat thereof.

## Attachment 2







Interstate Telecommunications Cooperative, Inc.  
312 4<sup>th</sup> Street West, PO Box 920, Clear Lake, SD 57226

July 5, 2017

Ms. Patricia Van Gerpen  
Public Utilities Commission  
500 East Capitol Ave.  
Pierre, SD 57501

Re: In the Matter of the Petition of Interstate Telecommunications Cooperative, Inc. ("ITC") for an  
Amended Certificate of Authority (TC17-023).

Dear Ms. Van Gerpen:

This letter is written to confirm that the undersigned desires to receive telecommunications service from  
Interstate Telecommunications Cooperative, Inc.

Sincerely,

Collins Colony

Joey Wipf  
By: Joey Wipf  
Its: Joey Wipf

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

IN THE MATTER OF THE APPLICATION OF INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC. FOR AN AMENDED CERTIFICATE OF AUTHORITY TO REVISE ITS AUTHORIZED LOCAL EXCHANGE SERVICE TERRITORY	) ) ) ) ) ) )	ORDER GRANTING AMENDED CERTIFICATE OF AUTHORITY AND GRANTING WAIVERS  TC17-023
--	---------------------------------	---

On June 21, 2017, the South Dakota Public Utilities Commission (Commission) received an application from Interstate Telecommunications Cooperative, Inc. (ITC) for approval of an Amended Certificate of Authority for local exchange service pursuant to SDCL 49-31-69. Pursuant to a recently-discovered discrepancy between the Study Area Boundary Map and actual practice, ITC requests to add new telephone service territory currently held by CenturyLink. CenturyLink does not object to ITC's request. ITC also requests the Commission waive ARSD 20:10:32:03 (1-8); (10-22); and (24).

On June 22, 2017, the Commission electronically transmitted notice of the filing and the intervention deadline of July 7, 2017, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. No petitions to intervene or comments were filed.

On July 21, 2017, at its regularly scheduled meeting, the Commission considered the request for an Amended Certificate of Authority. The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-3 and 49-31-69 and ARSD 20:10:32:03. The Commission voted unanimously to grant the requested waivers and approve the Amended Certificate of Authority. As the Commission's final decision in this matter, it is therefore

ORDERED, that ITC's requested waivers of ARSD 20:10:32:03 (1-8); (10-22); and (24) are hereby granted; it is further

ORDERED, that ITC's request for an Amended Certificate of Authority is hereby granted.

Dated at Pierre, South Dakota, this 28<sup>th</sup> day of July, 2017.

<b>CERTIFICATE OF SERVICE</b>
<p>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, electronically or by mail.</p>
<p>By: <u>Karen E. Bremer</u></p>
<p>Date: <u>07/28/17</u></p>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Kristie Fiegen

KRISTIE FIEGEN, Chairperson

Gary Hanson

GARY HANSON, Commissioner

Chris Nelson

CHRIS NELSON, Commissioner