

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
<b>INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.</b>	)	CC Docket No. 96-45
	)	
and	)	
	)	
<b>QWEST CORPORATION d/b/a CENTURYLINK QC</b>	)	
	)	
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 Qwest Corporation d/b/a CenturyLink QC ("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: (a) to permit CenturyLink to remove a portion of its Flandreau Exchange (the "Transfer Area"), with no current active subscriber lines and one requesting subscriber line, and no non-active subscriber locations, from its South Dakota Study Area (Study Area Code: 395145) and for ITC to add the Transfer Area to its study area (Study Area Code: 391654). Attachment 1 sets forth the legal description of the Transfer Area. CenturyLink is not transferring any facilities or formally transferring any customers to ITC. Attachment 2 is a map showing the affected area.

Petitioners respectfully request that the Commission find this Petition is appropriate for streamlined treatment and expeditiously issue a public notice seeking comment on this joint petition for waiver so that it can go into effect in accordance with Section 36.4(a) of

the Commission's Rules.<sup>1</sup> 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*.<sup>2</sup>

### **BACKGROUND**

The area being transferred from CenturyLink to ITC is located in Brookings and Moody Counties in rural southeastern South Dakota with no existing customers and is being made pursuant to a service request from a new customer which is building a new facility within the Transfer Area. Prior to the transfer discussed herein, no customers have been served in the Transfer Area by either ITC or CenturyLink. However, the Transfer Area has long been included in CenturyLink's South Dakota study area (National Exchange Carrier Association (NECA) Study Area No. 395145).

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.

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<sup>1</sup> 47 C.F.R. Part 36.4(a).

<sup>2</sup> *In the Matter of Connect America Fund, A National Broadband Plan for Our Future, Establishing Just and Reasonable Rates for Local Exchange Carriers, High-Cost Universal Service Support, Developing an Unified Intercarrier Compensation Regime, Federal-State Joint Board on Universal Service, Lifeline and Link-Up, Universal Service Reform – Mobility Fund*, Report and Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663, 17760-17765, at ¶¶ 260-267 (rel. Nov. 18, 2011) (“*USF/ICC Transformation Order*”) (subsequent history omitted).

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 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.<sup>3</sup> The Commission expressly stated at the time that study areas were not frozen to "discourage the acquisition of high cost exchanges or the expansion of service to cover high

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<sup>3</sup> MTS/WATS Market Structure, 57 R.R.2d 511 (1984).

cost areas.”<sup>4</sup> Consequently, allowing ITC to acquire the Transfer Area from CenturyLink will not conflict with the Commission's rationale for freezing study area boundaries.

In its November 2011 *USF/ICC Transformation Order*,<sup>5</sup> the Commission revised its standards for reviewing study area petitions to the following two-prong standard: (1) the state commission having regulatory authority over the transferred exchanges does not object to the transfer; and (2) the transfer must be in the public interest. Further, the Commission noted that its evaluation of the public interest benefits of the proposed study area waiver would include: “(a) the number of lines at issue; (b) the projected universal service fund cost per line; and (c) 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.”<sup>6</sup>

**State Commission Approval.** The South Dakota Public Utilities Commission (“SDPUC”) is the only state commission having regulatory authority over the Transfer Area. On June 17, 2015, ITC filed an application with the SDPUC requesting an Amended Certificate of Authority to approve the transfer of the Transfer Area from CenturyLink to ITC. By the Order Granting Amended Certificate of Authority and Granting Waivers, TC15-014, issued July 21, 2015 (copy attached as Attachment 3); the SDPUC indicates that it has no objection to the Commission's grant of the proposed study area waiver.

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<sup>4</sup> Amendment of Part 67, 49 Fed. Reg. 48325, 48337 (Dec. 12, 1984).

<sup>5</sup> *USF/ICC Transformation Order*, 26 FCC Rcd at 17762, at ¶ 265.

<sup>6</sup> *Id.* The Commission stressed that these factors are guidelines “and not rigid measures for evaluating a petition for study area waiver.”

**Public Interest Benefits.** As the Commission stated in its *USF/ICC 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.

Prior to the transfer discussed herein, there are no lines at issue as no customers have been served in the Transfer Area by either CenturyLink or ITC. This Petition is being made pursuant to a service request from a single new customer which is building a new facility within the Transfer Area.

The second factor is the projected universal service fund cost per line. CenturyLink does not currently receive any universal service support for the Transfer Area. If this study area waiver is granted, ITC will have a projected USF cost per line of \$623.74 per year for one line of support in the Transfer Area.

The third factor in determining whether a waiver is in the public interest is whether such a grant would result in consolidation of study areas that facilitates reductions in cost by taking advantage of the economies of scale, i.e., reduction in cost per line due to the increased number of lines. ITC and CenturyLink jointly determined the best way to serve this new customer is by ITC assuming the Transfer Area. The Transfer Area is adjacent to customers currently served by ITC. CenturyLink's nearest facilities are significantly further away from the Transfer Area. The proximity of ITC's facilities and other customers to the Transfer Area makes it likely that ITC providing service to this new customer will result in significant cost savings in installation, maintenance, and other costs, as well as increased

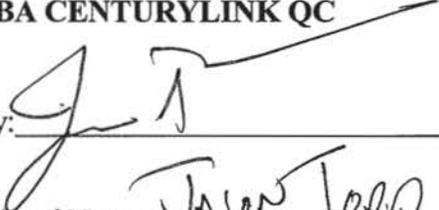
economies of scale. ITC will then provide the new customer with the full range of local exchange services provided to all residents of its territory. Further, the affected new customer has expressed support for the proposed transfer. ITC and CenturyLink are both established local exchange carriers with proven records of providing high-quality telecommunications facilities and services to their rural customers. Additionally, the proposed transfer of the Transfer Area will have an additional customer benefit in that ITC is a cooperative, and will ultimately permit Transfer Area customers to become member-owners of the cooperative. At a minimum, member-owners have a vote in electing the Board of Directors that determines their service quality, types of services, rates, and facility upgrades. For the reasons set forth above, the proposed study area waiver will serve the public interest.

**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 once access line, is likely to produce cost savings, increased economies of scale, and other substantial consumer benefits. Therefore, the Commission is respectfully requested to waive its frozen study area boundaries to allow the Transfer Area to be deleted from CenturyLink's existing South Dakota study area and added to ITC's South Dakota study area.

**QWEST CORPORATION  
DBA CENTURYLINK QC**

Respectfully submitted,  
**ITC TELEPHONE COMPANY, INC.**

By: 

By: \_\_\_\_\_

Printed Name: JASON TOPP

Printed Name: \_\_\_\_\_

Title: AGC

Title: \_\_\_\_\_

Date: NOV 3, 2015

Date: \_\_\_\_\_

Counsel:

Dated: November \_\_, 2015

**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 once access line, is likely to produce cost savings, increased economies of scale, and other substantial consumer benefits. Therefore, the Commission is respectfully requested to waive its frozen study area boundaries to allow the Transfer Area to be deleted from CenturyLink's existing South Dakota study area and added to ITC's South Dakota study area.

**QWEST CORPORATION  
DBA CENTURYLINK QC**

Respectfully submitted,  
**INTERSTATE  
TELECOMMUNICATIONS  
COOPERATIVE, INC.**

By: \_\_\_\_\_

By:  \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: Jerry Heiberger

Title: \_\_\_\_\_

Title: CEO / GM

Date: \_\_\_\_\_

Date: 11-9-15

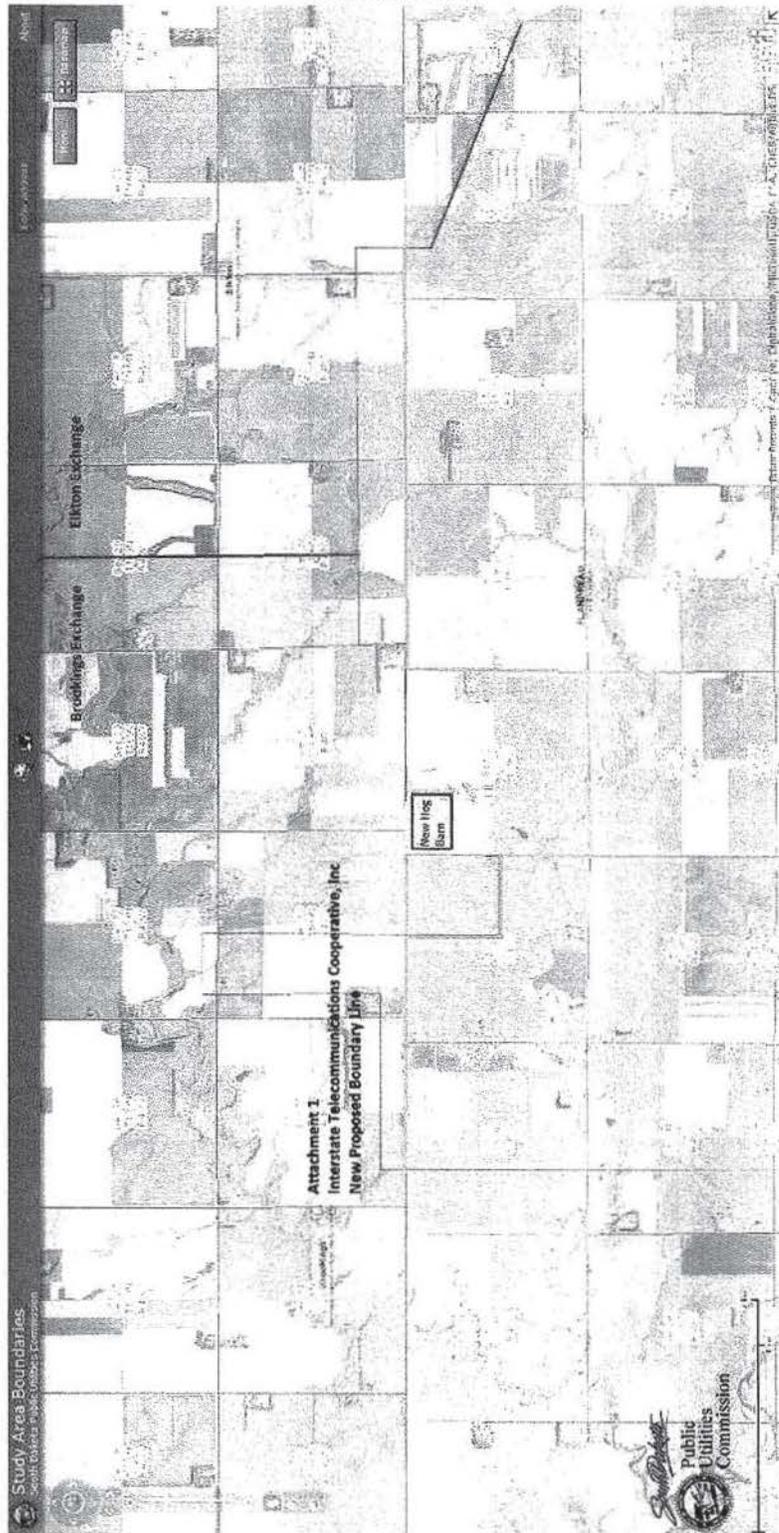
Counsel:

Dated: October \_\_, 2015

**Attachment 1**  
**Transfer Area Legal Description**

1. All of that portion, as identified on the map attached hereto, of Section Thirty-Five (35), Township One Hundred and Nine (109) North, Range Forty-Nine(49), West of the 5<sup>th</sup> P.M., Brookings County, State of South Dakota;
2. All of that portion, as identified on the map attached hereto, of Section Thirty-Six (36), Township One Hundred and Nine (109) North, Range Forty-Nine(49), West of the 5<sup>th</sup> P.M., Brookings County, State of South Dakota;
3. All of that portion, as identified on the map attached hereto, Section Twenty-Five (25), Township One Hundred and Nine (109) North, Range Forty-Nine(49), West of the 5<sup>th</sup> P.M., Brookings County, State of South Dakota;
4. All of Section Six (6), Township One Hundred and Eight (108) North, Range Forty Eight (48), West of the 5<sup>th</sup> P.M., Moody County, State of South Dakota;
5. All of that portion, as identified on the map attached hereto, of Section Thirty-Two (32), Township One Hundred and Nine (109) North, Range Forty-Eight (48), West of the 5<sup>th</sup> P.M., Brookings County, State of South Dakota;
6. All of that portion, as identified on the map attached hereto, of Section Thirty-Three (33), Township One Hundred and Nine (109) North, Range Forty-Eight (48), West of the 5<sup>th</sup> P.M., Brookings County, State of South Dakota; and,
7. All of that portion, as identified on the map attached hereto, of Section Thirty-Four (34), Township One Hundred and Nine (109) North, Range Forty-Eight (48), West of the 5<sup>th</sup> P.M., Brookings County, State of South Dakota.

# Attachment 2



Attachment 3

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

IN THE MATTER OF THE APPLICATION OF )	ORDER GRANTING
INTERSTATE TELECOMMUNICATIONS )	AMENDED CERTIFICATE OF
COOPERATIVE, INC. FOR AN AMENDED )	AUTHORITY AND GRANTING
CERTIFICATE OF AUTHORITY )	WAIVERS
)	
)	TC15-014

On June 17, 2015, the 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 service request from Mustang Pass, LLC, ITC requests the addition of new telephone service territory currently held by CenturyLink. CenturyLink concurs with the boundary change and maps included with the filing. ITC also requests the Commission waive ARSD 20:10:32:03 (1-8); (10-22); and (24).

On June 18, 2015, the Commission electronically transmitted notice of the filing and the intervention deadline of July 6, 2015, to interested individuals and entities. No petitions to intervene or comments were filed.

On July 21, 2015, 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 granted; and it is further

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

Dated at Pierre, South Dakota, this 21st day of July, 2015.

<p align="center"><b>CERTIFICATE OF SERVICE</b></p> <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>Polayne West</u></p> <p>Date <u>7-21-15</u></p> <p align="center"><small>(OFFICIAL SEAL)</small></p>
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BY ORDER OF THE COMMISSION:

Chris Nelson  
CHRIS NELSON, Chairman

Kristie Fiegen  
KRISTIE FIEGEN, Commissioner

Gary Hanson  
GARY HANSON, Commissioner