

BEFORE THE STATE CORPORATION COMMISSION
OF THE STATE OF KANSAS

In the Matter of the Complaint of Ideatek)
Telecom, LLC Against Nex-Tech and Rural)
Telephone Service Company Regarding) Docket No. 19- _____-_____-COM
Disconnection of Service, Request for Interim)
Ruling and Request for Expedited Review.)

COMPLAINT AND REQUEST FOR EXPEDITED REVIEW
AND REQUEST FOR INTERIM RULING

COMES NOW Ideatek Telcom, LLC (“Ideatek”), and brings this Complaint pursuant to the provisions of K.A.R. 82-1-220a, requesting the State Corporation Commission of the State of Kansas (“Commission” or “KCC”) to resolve the on-going disputes between Ideatek and Nex-Tech and its parent company, Rural Telephone Service Co. (collectively referred to herein as “Rural Telephone”) and prevent Nex-Tech and Rural Telephone from disconnecting service to Ideatek (which would block all local calls from Rural Telephone customers to Ideatek customers). Ideatek is requesting Expedited Review of this Complaint due to Rural Telephone’s threat to take immediate action that will result in Rural Telephone customers being unable to complete local calls to Ideatek customers. However, if the Interim Ruling requested herein is granted, then Expedited Review is not necessary. In support of this Complaint, Ideatek states as follows:

I. PARTIES AND JURISDICTION

1. Ideatek is a Kansas limited liability company, registered to do business in Kansas and in good standing with the Kansas Secretary of State. Ideatek’s principle place of business is 111 Old Mill Lane, Buhler, Kansas 67522.

2. Ideatek has operated a facilities-based fiber optic telecommunications network since 2005. In March of 2006, Ideatek, under its former name, “Wildflower

Telecommunications”¹, applied for and was subsequently approved for a Certificate of Convenience as a Competitive Local Exchange Carrier in Kansas in Docket No. 06-WLDT-1005-COC (“06-1005 Docket”) and a Certificate to provide interexchange and operator services in Docket No. 08-WLDT-1077-COC (“08-1077 Docket”).

3. Ideatek also provides service in Kansas using Voice over Internet Protocol (“VoIP”), thus operating as an interconnected VoIP carrier as defined under K.S.A. 66-2017. As such, Ideatek’s VoIP operations are not subject to the jurisdiction of, regulation by, supervision of or control by the Kansas Corporation Commission (“Commission” or “KCC”).

4. Copies of all orders, pleadings or other documents concerning this proceeding should be served upon the following individual, in addition to undersigned counsel:

Daniel P. Friesen
Ideatek Telcom, LLC
CIO / Managing Partner
111 Old Mill Ln
Buhler, KS 67522-0407
daniel@Ideatek.com
(620) 543-5003

5. Rural Telephone Service Co. is a local exchange carrier (“LEC”) as defined in K.S.A. 66-1,187(h), certified by the Commission as an incumbent local exchange carrier (“ILEC”) in specific geographical territories in Kansas. Rural Telephone Service Co. is a rate of return regulated public utility, fully regulated by the Commission pursuant to K.S.A. 66-104 and other applicable Kansas statutes.

¹ The name on Wildflower’s certificates and ETC designations was changed to Ideatek Telecom, LLC in Dockets No. 14-WLDT-587-CCN and 16-WLDT-487-CCN.

6. Nex-Tech is a telecommunications carrier as defined in K.S.A. 66-1,187(m), certified as such by the Commission. Nex-Tech is a wholly owned subsidiary of Rural Telephone Service Co.

7. The Commission has jurisdiction over this Complaint pursuant to K.S.A. 66-1,188; 66-1,189; 66-1,190; 66-1,191; 66-1,192; 66-1,193; 66-1,194, K.A.R. 82-1-220, and K.A.R. 82-1-220a.

II. FACTS AND NATURE OF DISPUTE

8. This Complaint concerns the ability of Kansas customers to complete calls in Rural Telephone's local service territory. Specifically, Ideatek, using VoIP/IP-enabled service, and Rural Telephone each have telephone customers geographically located in the same exchange territory (WaKeeney) and each have telephone numbers within the same local calling scope. Rural Telephone is the incumbent carrier in this territory.

9. When Ideatek began porting its customers from Rural Telephone's service to Ideatek's service in September of 2018, local calls from Rural Telephone to Ideatek were initially not functioning. Ideatek has experienced this issue with other local exchange carriers during the first initial ports in an exchange. As with other carriers, Ideatek called Rural Telephone and notified it of its routing issue. Within approximately one hour, call routing was restored by Rural Telephone. It is believed that Rural Telephone utilized existing AT&T tandem switch trunks that both parties utilize for, among other things, intra-LATA tandem transit. Intra-LATA tandem transit is a common service offered by a tandem provider which permits carriers to indirectly transport calling traffic via a third-party tandem operator.

10. Shortly thereafter, Ideatek was made aware that local calls from Rural Telephone's customers to Ideatek's customers were being blocked. Ideatek received a voicemail from a Rural

Telephone switch engineer that stated, “I got a call last night from our upper management team [..], I got told to remove that route”. Ideatek customers continued to be able to complete local calls to Rural Telephone customers, but Rural Telephone’s customers were unable to complete local calling to Ideatek’s customers. Rural Telephone customers were receiving the error message “this call cannot be completed as dialed” when they attempted to place a local call to an Ideatek customer.

11. When Ideatek contacted Rural Telephone about the matter, Rural Telephone took the position that Ideatek had to make a request for an interconnection agreement (“ICA”) before Rural Telephone has an obligation to complete calls from its customers to Ideatek’s. Ideatek disagreed with Rural Telephone’s position, asserting that an ICA was not necessary under these circumstances. Ideatek and Rural Telephone are indirectly connected today, and no other connection is necessary from a technological stand-point in order for Rural Telephone to complete these calls, as confirmed by Rural Telephone’s previous completion of such calls. As such, Ideatek is indirectly interconnected with Rural Telephone, and has no need or obligation to establish a direct interconnection with Rural Telephone otherwise for purposes of completing traffic between Ideatek customers and Rural Telephone’s customers.² As stated above, Ideatek has performed the same porting with at least five other Kansas rural telephone companies with little to no incident, and none demanded a fee for VoIP interconnection trunks if they choose not to use intra-LATA transit trunks.³ Ideatek’s correspondence to Rural Telephone in this regard is attached hereto as

Exhibit A.

² 47 U.S.C §251(a)(1) – Each telecommunications carrier has the duty to interconnect *directly or indirectly* with the facilities and equipment of other telecommunications carriers.

³ Furthermore, blocking technically viable call routing is not an appropriate response in any case.

12. With the assistance of Commission Staff, an interim agreement was reached on October 4, 2018, whereby Rural Telephone would continue to complete calls using an interim access trunk, referred to as a Session Initiation Protocol (“SIP”) trunk, to ensure customers’ calls were completed while the parties continued efforts to resolve their disagreement by negotiating an ICA or by obtaining a decision from a proper authority as to whether an ICA is necessary under the circumstances in this case and, if so, the appropriate terms for such agreement.

13. During the October 4, 2018 discussions, it was agreed the parties would attempt to resolve the ICA within 4 weeks. Although it remains Ideatek’s position that a direct connection is not necessary in these circumstances, on November 2, 2018, Ideatek sent Rural Telephone a proposed ICA that contained certain standard terms and did not require either company to pay charges to the other for completion of calls to their own customers. Ideatek does not believe it should pay local trunking fees for Rural Telephone to deliver *Rural Telephone’s* traffic to Ideatek. Ideatek already delivers Ideatek traffic to Rural Telephone at no charge to Rural Telephone. At a minimum, the trunking has equal costs to both parties and each entity meets the other at its facilities via the internet. To date, Ideatek has not received a counter-proposal to its proposed ICA.

14. On December 18, 2018, Rural Telephone sent an invoice to Ideatek for \$1,946.13 for charges related to setting up the SIP trunk that Rural Telephone insisted be used for purposes of completing their customers’ calls to Ideatek’s customers. Included with the invoice was a letter informing Ideatek that service would be disconnected if payment was not made by January 18, 2018. This correspondence from Rural Telephone is attached hereto as **Exhibit B**. The trunking disconnect threatened by Rural Telephone would result in the blocking of local calls from Rural Telephone’s customers to Ideatek’s customers.

15. Rural Telephone cannot take action that would cause non-completion of these local calls. All telecommunication carriers have an obligation under 47 CFR § 52.34 to facilitate all valid port requests. 47 CFR 52.34(c) states that a telecommunication carrier such as Rural Telephone must facilitate an end-user customer's valid number portability request either to or from an interconnected VoIP provider. This regulation applies to Ideatek's request to Rural Telephone in this case and the regulation does not require Ideatek to have an ICA or a direct connection before Rural Telephone's obligation is triggered. Ideatek submitted a portability request to Rural Telephone via a local service request ("LSR") and Rural Telephone provided a firm order confirmation ("FOC") on the numbers that were ultimately ported.

16. A Federal Communication Commission ("FCC") Order issued November 8, 2007, in Docket No. 07-188 addresses what is a "valid number portability request" triggering Rural Telephone's obligation to port. It states that, upon receiving a porting request, Rural Telephone has the right to validate the request by requiring Ideatek to provide the four pieces of information listed in the Order.⁴ Once Ideatek provides those four pieces of information and Rural Telephone has confirmed that it is a valid request (i.e., not a carrier trying to slam a customer), then Rural Telephone must port the number. By its very nature, this requirement also requires all telecommunications carriers ensure their networks are prepared to complete calls to all ported numbers. The FCC has consistently made efforts to enhance and expand the number porting process, which is consistent with its obligation to implement and facilitate competition in the industry. Rural Telephone's demand for an unnecessary ICA, its insistence that calls be routed over a specially dedicated SIP trunk when a technically viable route already exists, its imposition

⁴ The four fields are (1) 10-digit telephone number; (2) customer account number; (3) 5-digit zip code, and (4) pass code (if applicable). See FCC 07-188 Order, paragraph 16.

of charges on Ideatek for that trunk, and its threat to disconnect service for non-payment of those charges, all serve to impose unnecessary impediments to porting, and thus, to competition.

17. It is Ideatek's position Rural Telephone has an obligation to make every effort to complete its customer-originated calls to the terminating party when technically capable of doing so, even if completing its customers' calls causes Rural Telephone to incur termination charges.⁵ As declared by the Wireline Competition Bureau of the FCC,⁶

Parties also proposed that the Commission allow selective call blocking, which would permit carriers in the call path to block traffic that is unidentified or for which parties refuse to accept financial responsibility. We decline to adopt any remedy that would condone, let alone expressly permit, call blocking. The Commission has a longstanding prohibition on call blocking. In the 2007 *Call Blocking Order*, the Wireline Competition Bureau emphasized that the "the ubiquity and reliability of the nation's telecommunications network is of paramount importance to the explicit goals of the Communications Act of 1934, as amended" and that "Commission precedent provides that no carrier, including interexchange carriers, may block, choke, reduce or restrict traffic in any way." We find no reason to depart from this conclusion. We continue to believe that call blocking has the potential to degrade the reliability of the nation's telecommunications network. Further, as NASUCA highlights in its reply comments, call blocking ultimately harms the consumer, "whose only error may be relying on an originating carrier that does not fulfill its signaling duties."

Neither the FCC's nor the Commission's rules require *direct* interconnection as a prerequisite for the exchange of local voice traffic, and call blocking to force a competing carrier to obtain direct interconnection or pay access fees for completion of local calls is prohibited. Rural Telephone has failed to provide a cite to any authority supporting its position; in fact, the FCC has held otherwise.⁷

⁵ Note: It is industry standard and practice for the terminating carrier to always pay for the transport.

⁶ "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", FCC 11-161, *Report and Order and Further Notice of Proposed Rulemaking*, Adopted October 27, 2011, Released November 28, 2011, ¶734.

⁷ See [Rural Call Completion](#), WC Docket No. 13-39, *Second Further Notice of Proposed Rulemaking*, released July 14, 2017, para 3.

18. There is a technically feasible means for Rural Telephone to terminate local calls to Ideatek customers using facilities existing at the time Ideatek began providing service to its customers in September of 2018. Rural Telephone's demand for a direct interconnection using a SIP trunk, its invoicing for charges related to the SIP trunk, and its unilateral threat to disconnect service so that calls from its customers to Ideatek's customers cannot be completed, constitutes the establishment of a competitive barrier to entry and an attempt to extract inappropriate charges from Ideatek for interconnection trunks not necessary for purposes of completing these calls.

19. K.A.R. 82-1-220a(j) states, in part, that "[d]uring the expedited review, each party shall refrain from taking action that would impair the other party's ability to offer service to its end users." K.A.R. 82-1-220a(h) states, in part, that "[t]he examiner may issue an interim ruling that controls the actions of the parties until a formal hearing can be conducted or a subsequent written decision is filed. The interim ruling shall be in effect throughout the complaint process." Pursuant to these regulations, Ideatek requests an Interim Ruling prohibiting Rural Telephone from disconnecting service or taking any other action that would interrupt service to customers in the WaKeeney exchange or that would harm Ideatek's ability to provide service to its customers. Ideatek has made every effort to resolve this matter informally with Rural Telephone but such efforts have been unsuccessful. Ideatek has repeatedly asked Rural Telephone for a written legal basis for its actions and that request has been ignored. Commission intervention is necessary in order to assure continued service to Kansas customers and prevent an incumbent carrier from erecting barriers to competition in its territory.

20. The above-described circumstances make this dispute eligible for Expedited Review under K.A.R. 82-1-220a. Rural Telephone's actions affect the ability of customers to receive uninterrupted service to place local calls in this exchange, and it affects Rural Telephone's

provisioning of services and functionality to Ideatek and all customers in the exchange. However, if Ideatek's request for an Interim Ruling is granted, then Expedited Review is no longer crucial. The concern is that customers do not have their calls blocked during the pendency of this docket.

III. REQUEST FOR ORDER ASSESSING COSTS TO RURAL TELEPHONE

21. Pursuant to K.S.A. 66-1502, in cases where expenses incurred by the Commission, its Staff, or by the Citizens' Utility Ratepayer Board reasonably attributable to an investigation against a public utility are expected to exceed \$100, the Commission is authorized to assess such expenses against the utility. The statute provides that the Commission shall assess such expenses "against the public utility or common carrier investigated", which in this case is Rural Telephone. As such, the Commission's costs for this proceeding should be assessed 100% to Rural Telephone. Furthermore, assessing all costs to Rural Telephone is equitable considering that an extended period of time has elapsed since Ideatek first sent a draft ICA to Rural Telephone in an attempt to resolve this dispute without litigation and Rural Telephone has not yet provided a counter-proposal to Ideatek for review but has threatened disconnection to occur on the day this Complaint is being filed for non-payment of a disputed invoice that is part of this Complaint. Blocking customer calls is in direct conflict with the FCC's admonishment that "no carrier, including interexchange carriers, may block, choke, reduce or restrict traffic in any way. We find no reason to depart from this conclusion. We continue to believe that call blocking has the potential to degrade the reliability of the nation's telecommunications network."⁸ Accordingly, Ideatek request that the costs of this docket be assessed only to Rural Telephone.

⁸ See footnote 6 for cite.

WHEREFORE, Ideatek respectfully requests the Commission issue an Interim Ruling prohibiting Rural Telephone from taking any action during the pendency of this proceeding that would interfere with customer call completion in the WaKeeney exchange. Ideatek also requests a final order finding that:

- (1) Ideatek is not required to seek or obtain a direct interconnection under the circumstances described above;
- (2) Ideatek properly noticed Rural Telephone before porting its customers in the WaKeeney exchange;
- (3) Rural Telephone must port upon receiving a valid request from a competing carrier like Ideatek;
- (4) Rural Telephone must complete the local calls of its customers if it has the technical ability to do so; and
- (5) Since Rural Telephone was capable of completing its customers calls to Ideatek customers without having to use the SIP trunk, Rural Telephone cannot collect from Ideatek the charges or costs related to providing service through the SIP trunk.

Respectfully submitted,

/s/ Glenda Cafer

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COUNSEL FOR IDEATEK TELCOM, LLC

EXHIBIT A

CAFER PEMBERTON LLC

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October 1, 2018

Mark Caplinger
Attorney at Law
7936 SW Indian Woods Place
Topeka, Kansas 66615

Sent by Email Only

Re: Rural/NexTech (“Rural”) Completion of IdeaTek/Eagle Communications
 (“IdeaTek”) Calls

Dear Mark:

I appreciate the opportunity Friday morning to discuss with you the situation between our clients regarding completion of calls formerly handled under Eagle’s arrangement with Big River that are now going to be handled under Eagle’s arrangement with IdeaTek.

While we talked about a number of issues regarding the situation, the one I am focusing on in this letter concerns completion of calls in the Rural local service territory. Specifically, IdeaTek via VoIP/IP-enable service and Rural via exchange access service each have telephone customers geographically located in the same exchange territory (WaKeeney) and each have telephone numbers within the same Rural-tariffed local calling scope. Currently, these IdeaTek customers are able to locally call the Rural customers yet the Rural customers are *unable* to complete local calling to the IdeaTek customers. Rural customers receive the error “this call cannot be completed as dialed.”

When IdeaTek originally discovered this issue and contacted Rural, the issue was resolved within an hour. The next day, IdeaTek received a voicemail from a Rural switch engineer that stated, “I got a call last night from our upper management team [...], I got told to remove that route”. Rural is now effectively blocking local calls from Rural customers to IdeaTek customers.

You explained that Rural believes IdeaTek needs to obtain certification from the KCC and make a request to Rural for an interconnection agreement before Rural has an obligation to complete calls from its customers to IdeaTek’s. As I indicated on our call, IdeaTek does not agree with your

position on this matter and strongly disagrees that blocking technically viable call routing is an appropriate response in any case.

I think it is clear that Rural cannot take action that would cause non-completion of these calls. As we have previously discussed in related porting issues with similar RLECs in Kansas, all telecommunication carriers have an obligation under 47 CFR § 52.34 to facilitate all valid port requests. By its very nature, this requirement also requires all telecommunications carriers ensure their networks are prepared to complete calls to all ported numbers. The mere fact that IdeaTek is porting from a third-party carrier other than Rural does not absolve Rural of this obligation.

It is our belief that Rural has an obligation to complete all technically feasible calls for its customers and, if you disagree, I respectfully request you provide me with support for your position in writing. I've been unable to find any law that allows Rural to refuse to complete such calls, and in fact, my research shows that the FCC has stated otherwise.¹ Because this matter is actively prohibiting call completion and because IdeaTek has plans to begin serving a larger group of customers within the Rural exchange areas in the coming days, we asked that you expedite resolution of this matter no later than the close of business today (5:00pm, Monday, October 1, 2018) or IdeaTek will need to pursue alternative remedies, including seeking immediate intervention from the KCC and/or the FCC.

Service to our customers is the most urgent concern at this time. As soon as that matter is resolved between Rural and IdeaTek, then Rural should be free to pursue with IdeaTek its position regarding certification, interconnection and/or compensation, and IdeaTek will be happy to participate in such discussion and work to an appropriate and mutually agreeable resolution.

Sincerely,

/s/ Glenda Cafer

Glenda Cafer
Counsel for IdeaTek

cc: Client

¹ See [Rural Call Completion](#), WC Docket No. 13-39, *Second Further Notice of Proposed Rulemaking*, released July 14, 2017, para 3.



Rural Telephone Service
CABS Department
118 West Main
Hill City, KS 67642

December 18, 2018

IdeaTek
Daniel Friesen
111 Old Mill Lane
Buhler, KS 67522

Dear Daniel:

The attached invoices have been submitted to your company for payment from Rural Telephone Service. We have not received payment on account 90566. Our Interstate tariff Section 2.1.8 states that if a customer fails to make payments on the date and times specified, the telephone company may, on thirty days written notice to the customer by certified U.S. Mail, take the following actions.

1. Refuse additional applications for service and/or refuse to complete any pending orders for service, and/or
2. Discontinue the provision of service to the customer.

If payment is not received by January 18, 2019 at 17:00, the service will be discontinued, and any new or pending services will be denied.

We ask that you provide immediate payment so that services will continue. If you have any questions, please call me at 785-421-2916.

Sincerely,

A handwritten signature in black ink that reads "Wade McDowell".

Wade McDowell
Revenue Analyst

118 West Main
Hill City, KS 67642
phone: 785.421.2916
toll free: 877.421.7872
fax: 785.421.2917

Rural Telephone Service Co.
 118 West Main
 Hill City, KS 67642



Account No: 90566
 Balance Forward \$0.00
 Payment Received \$0.00
 Balance \$0.00
 Current Charges \$1,946.13
 Total Amount Due \$1,946.13
 Invoice No: 1826-90566-1118
 Bill Date: 11-01-2018
 Due Date: 12-01-2018

IdeaTek
 Attn: Megan Brandt
 PO Box 258
 Buhler, KS 67522

Settlement Agreement Invoice

From: Rural Telephone Service Co.
 118 West Main
 Hill City, KS 67642

Account No: 90566
 Balance Forward \$0.00
 Payment Received \$0.00
 Balance \$0.00
 Current Charges \$1,946.13
 Total Amount Due \$1,946.13
 Invoice No: 1826-90566-1118
 Bill Date: 11-01-2018
 Due Date: 12-01-2018

To: IdeaTek
 Attn: Megan Brandt
 PO Box 258
 Buhler, KS 67522

For Billing Inquiries Call: Wade McDowell at (785) 421-2916

CIRCUIT: <u>107.SIP.VCTAKSXACA1.BHLRKSPS0</u>		004436		VICTORIA TO BUHLER	
PON OR S/O:		End Office: VICTORIA			
Service Type:	HC	ACTL:		VICTORIA	
Jurisdiction:	Local	Tariff:	INTERSTATE	INSTALL DATE:	10-05-2018
Connecting Facilities	11-01-2018	30	1	703.66	703.66
Connecting Facilities	10-05-2018	25	1	586.38	586.38
INSTALLATION CHARGES					656.09
				Circuit Total	<u>1,946.13</u>

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and correct copy of the above pleading was electronically served this 18th day of January, 2019 to:

Mark Caplinger
Attorney at Law
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Topeka, Kansas 66615
mark@caplingerlaw.net

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Glenda Cafer

Glenda Cafer