

TC97-179

FEB

TC97-179

DOCKET NO.

In the Matter of

IN THE MATTER OF THE FILING BY
NEBCOM, INC. FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS
CARRIER

Public Utilities Commission of the State of South Dakota

DATE

MEMORANDA

DATE	MEMORANDA
11/5/97	Filed and Indexed;
11/16/97	TC Fee Filing;
11/21/97	Order for and Notice of Hearing;
11/22/97	Agreement;
12/5/97	Transcript of Hearing held on 12/3/97;
12/17/97	Ending of Public Hearings of Case, Order and Notice of Entry of Order;
12/17/97	Docket Closed
12/31/97	Agreement and Leak Up Plan for Bell Co. m.

TC97-179

NebCom, Inc.

110 East Elk Street, PO Box 70, Jackson, NE 68743
Phone 402-632-9311

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

November 3, 1997

Mr. William Bullard, Jr.
Public Utilities Commission
Capitol Building, 1st Floor
500 East Capitol Avenue
Pierre, SD 57501-5070

Dear Mr. Bullard:


NebCom, Inc. is enclosing a request for designation as an "eligible telecommunications carrier" ("ETC"). NebCom, Inc. has assumed universal service obligations for the area it serves and meets the criteria for ETC designation in accordance with federal regulations, except for the requirement for "toll control" service. NebCom, Inc., along with others in the industry, is in the process of examining the "toll control" issue. It is certain that the provision of this service as outlined in the applicable FCC rules will require a better understanding of the FCC's intent relative to "toll control" than exists now. Due to the time needed in studying and providing the "toll control" service, NebCom, Inc. is also enclosing herewith a request for a temporary waiver of the "toll control" service requirement.

Please contact me with any questions you may have regarding these requests.

Thank you.

Yours truly,

NebCom, Inc.



Emory Graffia
General Manager

EG:mr

TC97-179	Nebcom, Inc. pursuant to 47 U.S.C. 214(e) and 47 C.F.R. 54.201 hereby seeks designation as an eligible telecommunications carrier within the local exchange area that constitutes its service area. Nebcom, Inc. is the facilities-based local exchange carrier presently providing local exchange telecommunications services in the following exchange: (605) 587 North Bristow exchange area. (Staff: HB/KC)	11/05/97	11/21/97
TC97-180	Red River Telecom, Inc. pursuant to 47 U.S.C. 214(e) and 47 C.F.R. 54.201 hereby seeks designation as an eligible telecommunications carrier within the local exchange area that constitutes its service area in South Dakota. Red River Telecom, Inc. is the facilities-based local exchange carrier presently providing local exchange telecommunications services in the following exchange in South Dakota: (605) 553 South Lidgerwood. Red River Telecom, Inc. to its knowledge, is the only carrier today providing local exchange telecommunications service in the above exchange area. (Staff: HB/CH)	11/05/97	11/21/97
FORMAL COMPLAINT FILED			
TC97-178	Ben Hofer vs U S WEST Communications, Inc. "We live in southern Spink County on the northern end of the Huron area phone line served by U S WEST. We experience frequent phone service outages. These most often happen when there is a weather change. The servicemen tell us that wind drives in snow and dirt in the boxes, or a drop of moisture which shorts out circuits. Mice also have caused outages by being in the boxes. Also, the servicemen tell us the relay equipment is of the oldest style, seldom found in use any more. Our internet connections are slow. The majority (33 of 50 connections) are in the 12,00 to 16,800 bps range. The low capacity of the phone lines may also relate to line noise and weak phone signals we experience. There are no more phone lines available for our use to our farm. Today's agri-business operation is relying increasingly on rapid communication to do business. On one phone line we have: phone, fax and internet, a family residence, a farm/ranch that produces a half million dollars of ag products annually, and a farm/ranch Bed & Breakfast/farm vacation business area so that we can operate our ag business, tourism business and personal business in an expedient manner. We need two more lines, which are presently unavailable, to our farm." (Staff: SW/CH)	10/29/97	NA

Important Notice: The Commission is compiling a list of internet addresses. If you have an internet address please notify the Commission by E-mailing it to Terry Korum at: terryk@poc.state.sd.us or Faxing the address to the Commission at: 605-773-3809

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South Dakota Public Utilities Commission State Capitol 500 E. Capitol Pierre, SD 57501-5070 Phone: (800) 332-1782 Fax: (605) 773-3809		<h2>TELECOMMUNICATIONS SERVICE FILINGS</h2> <p>These are the telecommunications service filings that the Commission has received for the period of:</p> <h3>10/31/97 through 11/06/97</h3> <p>If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five days of this filing.</p>	
DOCKET NUMBER	TITLE/STAFF/SYNOPSIS	DATE FILED	INTERVENTION DEADLINE
REQUEST FOR CERTIFICATE OF AUTHORITY			
TC97-173	Application by Vista Communications, Inc. for a Certificate of Authority to operate as a telecommunications company within the state of South Dakota. (Staff: TS/CH) "Applicant seeks authority to offer a full range of 1+ interexchange telecommunications services on a resale basis. Specifically, Applicant seeks authority to provide MTS, out-WATS, in-WATS and Calling Card services. Applicant does not intend to provide operator services, 900 or 700 services."	10/31/97	11/21/97
TC97-174	Application by NTI Telecom, Inc. for a Certificate of Authority to operate as a telecommunications company within the state of South Dakota. (Staff: TSKC) "Applicant proposes to offer resold intrastate long distance services to the public. The services to be provided are Message Toll Service, Incoming 800, Travel Card services and Operator Services."	10/31/97	11/21/97
NONCOMPETITIVE TELECOMMUNICATIONS FILING			
TC97-175	U S WEST Communications filed to revise the language for Termination Liability Charges in the General Regulations section of its Exchange and Network Services Tariff. (Staff: TS/CH) The reason for the change is "to put the change in the contracts for the specific services. USWC proposes an effective date of December 1, 1997."	10/31/97	11/21/97
REQUEST FOR ELIGIBLE TELECOMMUNICATIONS COMPANY STATUS			
TC97-176	Dickey Rural Telephone Cooperative pursuant to 47 U.S.C. 214(e) and 47 C.F.R. 54.201 hereby seeks designation as an eligible telecommunications carrier within the local exchange area that constitutes its service area in South Dakota. Dickey Rural Telephone Cooperative is the facilities-based local exchange carrier presently providing local exchange telecommunications services in the following exchanges in South Dakota: (605) 358 South Forbes, (605) 379 South Nelvik, (605) 383 South Guelph, and (605) 687 South Ventura. Dickey Rural Telephone Cooperative, to its knowledge, is the only carrier today providing local exchange telecommunications service in the above exchange area. (Staff: HB/KC)	11/03/97	11/21/97
TC97-177	Dickey Rural Communications, Inc. pursuant to 47 U.S.C. 214(e) and 47 C.F.R. 54.201 hereby seeks designation as an eligible telecommunications carrier within the local exchange area that constitutes its service area in South Dakota. Dickey Rural Communications, Inc. is the facilities-based local exchange carrier presently providing local exchange telecommunications services in the following exchanges in South Dakota: (605) 289 South Ashley, (605) 348 South Ellendale, and (605) 735 South Forman. Dickey Rural Communications, Inc., to its knowledge, is the only carrier today providing local exchange telecommunications service in the above exchange area. (Staff: HB/KC)	11/03/97	11/21/97

PAGE 1 OF 2

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

IN THE MATTER OF THE FILINGS BY THE FOLLOWING TELECOMMUNICATIONS COMPANIES FOR DESIGNATION AS ELIGIBLE TELECOMMUNICATIONS CARRIERS:)	ORDER FOR AND NOTICE OF HEARING
DICKEY RURAL TELEPHONE COOPERATIVE)	TC97-176
DICKEY RURAL COMMUNICATIONS, INC.)	TC97-177
NEBCOM, INC.)	TC97-179
RED RIVER TELECOM, INC.)	TC97-180
VALLEY TELEPHONE COMPANY)	TC97-182
FARMERS MUTUAL TELEPHONE COMPANY)	TC97-183
CHEYENNE RIVER SIOUX TRIBE TELEPHONE AUTHORITY)	TC97-184
CONSOLIDATED TELEPHONE COOPERATIVE)	TC97-185
CTC COMMUNICATIONS, INC.)	TC97-186

The South Dakota Public Utilities Commission (Commission) received requests from the above captioned telecommunications companies requesting designation as eligible telecommunications carriers.

The Commission electronically transmitted notice of the filings and the intervention deadlines to interested individuals and entities.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-31, including 1-26-18, 1-26-19, 49-31-3, 49-31-7, 49-31-7.1, 49-31-11, and 47 U.S.C. § 214(e)(1) through (5).

The issues at the hearing shall be as follows: (1) whether the above captioned telecommunications companies should be granted designation as eligible telecommunications carriers, and (2) what service areas shall be established by the Commission.

A hearing shall be held at 1:30 P.M., on Tuesday, December 2, 1997, in Room 464, State Capitol, Pierre, South Dakota. It shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of this hearing, the Commission may either grant or deny the request from any of the above captioned telecommunications companies requesting designation as an eligible telecommunications carrier, and the Commission shall establish service areas for eligible telecommunications carriers. The Commission's decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED that a hearing shall be held at the time and place specified above on the issues of whether the above captioned telecommunications companies should be granted designation as eligible telecommunications carriers, and the Commission shall establish service areas for eligible telecommunications carriers.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 21 day of November, 1997.

<p>CERTIFICATE OF SERVICE</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, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.</p> <p>By: <u>William Bullard, Jr.</u></p> <p>Date: <u>11/21/97</u></p> <p align="center">(OFFICIAL SEAL)</p>

BY ORDER OF THE COMMISSION:
Commissioners Burg, Nelson and
Schoenfelder

William Bullard, Jr.
WILLIAM BULLARD, JR.
Executive Director

0144.63.4

NebCom, Inc.

110 East Elk, PO Box 70, Jackson, NE 68743
Phone 402-632-9311

TC 97-179

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

November 24, 1997

Harlan Best
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, SD 57501-5070

Dear Mr. Best:

Please find enclosed as requested an Affidavit responding to the provisioning of Single Party Service at North Bristow.

Please contact me with any questions you may have regarding these requests.

Thank you.

Yours truly,

NEBCOM, INC.

Emory Grafis
Emory Grafis
General Manager

EG:mr

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THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED

DEC 05 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE FILINGS BY THE
FOLLOWING TELECOMMUNICATIONS
COMPANIES FOR DESIGNATION AS
ELIGIBLE TELECOMMUNICATIONS
CARRIERS:

DICKEY RURAL TELEPHONE COOPERATIVE	)	TC97-176
DICKEY RURAL COMMUNICATIONS, INC.	)	TC97-177
NEBCOM, INC.	)	TC97-179
RED RIVER TELECOM, INC.	)	TC97-180
VALLEY TELEPHONE COMPANY	)	TC97-182
FARMERS MUTUAL TELEPHONE COMPANY	)	TC97-183
CHEYENNE RIVER SIOUX TRIBE TELEPHONE AUTHORITY	)	TC97-184
CONSOLIDATED TELEPHONE COOPERATIVE	)	TC97-185
CTC COMMUNICATIONS, INC.	)	TC97-186

HEARD BEFORE THE PUBLIC UTILITIES COMMISSION

PROCEEDINGS:

December 2, 1997
1:30 P.M.
Room 464, Capitol Building
Pierre, South Dakota

PUC COMMISSION:

Jim Burg, Chairman
Laska Schoenfelder, Commissioner
Pam Nelson, Commissioner

A P P E A R A N C E SCOMMISSION STAFFPRESENT:

Rolayne Ailts Wiest
Camron Hoseck
Harlan Best

ALSO PRESENT:

Richard D. Coit
P.O. Box 57
Pierre, SD 57501

I N D E XWITNESSES:PAGE:

Harlan Best

14

P R O C E E D I N G S

1
2 CHAIRMAN BURG: Okay. I'll begin the hearing
3 for the dockets relating to eligible telecommunications
4 designation. The time is approximately 1:30, it would
5 be about 1:40. The date is December 2nd, 1997; and the
6 location of the hearing is Room 464, State Capitol,
7 Pierre, South Dakota.

8 I am Jim Burg, Commission Chairman.
9 Commissioners Laska Schoenfelder and Pam Nelson are
10 also present. I'm presiding over this hearing. This
11 hearing was noticed pursuant to the Commission's Order
12 For and Notice of Hearing issued November 21, 1997.

13 The issue at this hearing shall be as
14 follows: Whether the requesting telecommunications
15 companies should be granted designation as eligible
16 telecommunication carriers; and, two, what service
17 areas shall be established by the Commission.

18 All parties have the right to be present and
19 to be represented by an attorney. All persons so
20 testifying will be sworn in and subject to
21 cross-examination by the parties. The Commission's
22 final decisions may be appealed by the parties to the
23 State Circuit Court and State Supreme Court.

24 Rolayne Wiest will act as Commission
25 counsel. She may provide recommended rulings on

1 procedural and evidentiary matters. The Commission may
2 overrule its counsel's preliminary rulings throughout
3 the hearing. If not overruled, the preliminary rulings
4 will become the final rulings.

5 And at this time I will turn it over to
6 Rolayne for the hearing.

7 MS. WIEST: Let's start with TC97-176. First
8 of all, Rich, who are you representing today?

9 MR. COIT: I'm appearing for four of the
10 companies listed in the order for the Notice of Hearing
11 and that is Dickey Rural Telephone Cooperative, Dickey
12 Rural Communications, Inc., Red River Telecom, Inc.,
13 and Cheyenne River Sioux Tribe Telephone Authority.

14 MS. WIEST: Is anyone else representing the
15 other companies? Apparently not.

16 MR. HOSECK: Not to my knowledge.

17 MS. WIEST: Okay. Well, let's take
18 appearances. Rich, you've already entered your
19 appearance. Staff.

20 MR. HOSECK: Camron Hoseck on behalf of
21 staff.

22 MS. WIEST: We'll begin with TC97-176. First
23 of all, I have one exhibit listed. Can we have a
24 motion to move that exhibit in?

25 MR. COIT: Yes. On behalf of Dickey Rural

1 Telephone Cooperative, I would move for the admittance
2 into the record of Exhibit No. 1, which is their
3 request for ETC designation and dated October 28, 1997.

4 MS. WIEST: Any objection?

5 MR. HOSECK: No objection.

6 MS. WIEST: If not, that has been admitted.

7 Are there any questions concerning this docket? Do you
8 have anything to add?

9 MR. COIT: I don't have anything to add
10 beyond the application. I believe they responded to
11 the single party service question adequately, and also
12 I hope they've responded to the toll control to the
13 Commission's satisfaction.

14 MS. WIEST: Yes. My only question is they
15 didn't have a time frame, so I assume it would be the
16 one-year waiver for toll control?

17 MR. COIT: Yeah. I spoke with Roger Johnson,
18 who is the manager for Dickey Rural Co-op and Dickey
19 Rural Communications, yesterday and he indicated that a
20 one-year waiver would be just fine.

21 MS. WIEST: Okay. Is there a motion?

22 CHAIRMAN BURG: I'll move we grant approval
23 of Dickey Rural Telephone Co-op's ETC request with the
24 two waivers.

25 MS. WIEST: I'm sorry, I believe I thought at

1 this time we were only doing waivers and we were going
2 to do all the approvals next the 11th.

3 CHAIRMAN BURG: You're right. I'll move we
4 grant the waivers for both the single party service
5 and --

6 COMMISSIONER SCHOENFELDER: We don't need a
7 waiver for single party, I believe.

8 MS. WIEST: We only need the one-year toll
9 control.

10 CHAIRMAN BURG: Yeah, one-year toll control.

11 COMMISSIONER NELSON: I'd second.

12 COMMISSIONER SCHOENFELDER: I'd concur.

13 MS. WIEST: Let's go to TC97-177. And I have
14 one exhibit.

15 MR. COIT: Yes. And I would at this time
16 make a motion to admit into the record the request for
17 ETC designation of Dickey Rural Communications, Inc.,
18 which has been marked Exhibit 1, which is also dated
19 October 28th, 1997.

20 MS. WIEST: Any objection?

21 MR. HOSECK: None.

22 MS. WIEST: If not, it's been admitted. Any
23 questions concerning this docket? If not, I believe
24 this docket needs a one-year waiver on toll control.
25 Is there a motion?

1 COMMISSIONER NELSON: I'd move that we grant
2 a waiver for the toll control in TC97-177.

3 COMMISSIONER SCHOENFELDER: Seconded.

4 CHAIRMAN BURG: Concur.

5 MS. WIEST: We'll move on to TC97-179. I
6 have two exhibits. Is there a motion?

7 COMMISSIONER NELSON: No waivers?

8 MS. WIEST: Would staff care to move these
9 in?

10 MR. HOSECK: Yeah, I'll make a motion to move
11 in the request for ETC designation on behalf of Nebcom
12 Inc., and a supplemental affidavit of November 24,
13 1997.

14 MS. WIEST: And those would be Exhibits 1 and
15 2. Any objection? If not, they are admitted. And for
16 this, my understanding is that all they need is the
17 one-year waiver for the toll control.

18 COMMISSIONER SCHOENFELDER: Okay. And I
19 would move we grant the one-year waiver for toll
20 control to Nebcom in TC97-179.

21 CHAIRMAN BURG: I'll second it.

22 COMMISSIONER NELSON: And I concur.

23 MS. WIEST: Moving on to TC97-180. I have
24 one exhibit in this docket. Is there a motion?

25 MR. COIT: Yes. Richard Coit on behalf of

1 Red River Telecom, Inc. I would move to admit their
2 request for ETC designation marked Exhibit No. 1, which
3 is dated November 3rd, 1997. I would also note that I
4 spoke with Mr. Arden Doran, and he is agreeable or
5 would request the one-year waiver with respect to toll
6 control services.

7 MS. WIEST: Any objection to Exhibit 1?

8 MR. HOSECK: No objection.

9 MS. WIEST: If not, it's been admitted. Is
10 there a motion?

11 CHAIRMAN BURG: I'll move we grant a one-year
12 waiver of toll control for Red River Telecom, Inc.

13 COMMISSIONER NELSON: I second.

14 COMMISSIONER SCHOENFELDER: Concur.

15 MS. WIEST: We'll move on to TC97-182. I
16 have two exhibits. Is there a motion?

17 MR. HOSECK: I would move the request for ETC
18 designation on behalf of Valley Telephone Company.
19 This is November 10, 1997, and a supplemental affidavit
20 of December 1, 1997, into evidence.

21 MS. WIEST: Any objection? If not, it's been
22 admitted. And this application also needs the one-year
23 waiver for toll control.

24 CHAIRMAN BURG: I'll move we grant a one-year
25 waiver of toll control to Valley Telephone Company.

1 COMMISSIONER NELSON: I second.

2 COMMISSIONER SCHOENFELDER: Concur.

3 MS. WIEST: Then I'll move on to TC97-183. I
4 have two exhibits -- three exhibits.

5 COMMISSIONER SCHOENFELDER: Three.

6 MR. HOSECK: I would move the request for ETC
7 designation on behalf of Farmers Mutual Telephone
8 Company of November 10, 1997, and a supplemental
9 affidavit of November 26th, 1997, into evidence.

10 MS. WIEST: Is there any objection to
11 Exhibits 1 through 3? If not, they've been admitted.

12 MR. HOSECK: Excuse me, there is a clerical
13 thing. We actually have three affidavits, three
14 exhibits. I only mentioned two. There is another
15 supplemental affidavit that I would move in of November
16 18, 1997.

17 MS. WIEST: Okay. I have Exhibits 1, 2 and
18 3. Any objection? If not, they have been admitted.
19 And in this instance I believe they need a waiver on
20 toll control. It didn't request a specific time
21 period, but I'd recommend the one-year waiver.

22 COMMISSIONER SCHOENFELDER: I would move that
23 we grant a waiver for toll control for one year to
24 Farmers Mutual Telephone Company, which is TC97-183.

25 MS. WIEST: At this point we will go to

1 TC97-185. And this docket, I believe, I have one
2 exhibit. Is there a motion?

3 MR. HOSECK: I would move the request for ETC
4 designation on behalf of Consolidated Telephone
5 Cooperative, dated November 17, 1997, into evidence.

6 MS. WIEST: Is there any objection? If not,
7 it's been admitted. Again, in this one they didn't
8 specifically request a time period, but I'd recommend
9 the one-year waiver on the toll control.

10 CHAIRMAN BURG: I'll move we grant a one-year
11 waiver of toll control to Consolidated Telephone
12 Cooperative.

13 COMMISSIONER NELSON: I'd second.

14 COMMISSIONER SCHOENFELDER: Concur.

15 MS. WIEST: Then we go to TC97-186, and I
16 have two exhibits. Is there a motion?

17 MR. HOSECK: I would move the request for ETC
18 designation on behalf of CTC Communications, Inc., into
19 evidence, the request being dated November 17, 1997,
20 and the supplement to that of November 26th, 1997. I
21 would move both of those into evidence.

22 MS. WIEST: Any objection? If not, they've
23 been admitted. Again, they are requesting waiver from
24 toll control. No time period was specified. I'd
25 recommend the one year.

1 CHAIRMAN BURG: I'll move we grant a one-year
2 waiver of toll control for CTC Communications,
3 Incorporated.

4 COMMISSIONER NELSON: Second.

5 COMMISSIONER SCHOENFELDER: Concur.

6 MS. WIEST: At this time I guess we'll go off
7 the record and wait for further information on
8 TC97-184.

9 (AT THIS TIME A SHORT RECESS WAS TAKEN.)

10 MS. WIEST: Let's go back on the record.
11 TC97-184. At this time I have one exhibit.

12 MR. COIT: Yes. This is Richard Coit
13 representing CRST today. In addition to that exhibit,
14 I think there was a motion that attorneys for Cheyenne
15 River Sioux Tribe had filed asking for the motion to
16 take some administrative notice.

17 MS. WIEST: Yes.

18 MR. COIT: And I'd appreciate it if you could
19 rule on that as well.

20 MS. WIEST: Okay. First of all, Exhibit 1,
21 is there any objection to Exhibit 1 being admitted?

22 MR. HOSECK: That's the application?

23 MS. WIEST: That's the application.

24 MR. HOSECK: No objection.

25 MS. WIEST: If not, it has been admitted.

1 Then is there any comment on the motion for
2 administrative notice of related proceedings?

3 MR. HOSECK: Yes. Staff would resist the
4 motion on the basis that the motion calls for the
5 Commission to review the entire proceedings in the
6 TC94-122 case, which is the sale of exchanges, as the
7 grounds for granting the ETC designation. The basis of
8 resisting this is that it's a burdensome request which
9 is placed upon the Commission to go through that entire
10 record to extract those facts. And, secondly, J. D.
11 Williams has submitted an affidavit dated November 13,
12 1997, which does set out, at least for the most part,
13 the ability of the Cheyenne River Telephone Authority
14 to meet these requirements. So the objection is
15 resisted on the basis of it's burdensome and it's
16 redundant in that the evidence is already in the record
17 by reason of Mr. Williams' affidavit.

18 MS. WIEST: Well, on the issue of burdensome,
19 actually in their application they do reference
20 specific page numbers in exhibits, so I don't believe
21 that it is necessarily burdensome. It may be that the
22 affidavit does cover all this, but I would recommend
23 that the Commission grant the motion.

24 CHAIRMAN BURG: The motion to do what again?

25 MS. WIEST: Motion for administrative notice

011 010 1110

1 of other proceedings.

2 CHAIRMAN BURG: I'll move that we do grant
3 administrative notice.

4 COMMISSIONER NELSON: I'd second it.

5 COMMISSIONER SCHOENFELDER: I can concur, I
6 guess. I think it is probably redundant but it's
7 okay.

8 MS. WIEST: Okay. That's been granted three
9 to zero. And then the other point I would make is that
10 reading the affidavit by Mr. Williams, it is
11 confusing. I believe he references toll blocking when
12 he actually means toll control. And I would like that
13 to be clarified in a late-filed exhibit. Plus, another
14 clarification needs to be made concerning Lifeline and
15 Link Up services. Specifically, that as with the other
16 parties have stated that Cheyenne River will comply
17 with the FCC rules regarding Lifeline and Link Up
18 services. Is there anything else? And if those two
19 clarifications could be made within a late-filed
20 exhibit, the Commission will consider that late-filed
21 exhibit and intends to rule on all ETC applications on
22 December 11th. Are there any questions? Anything from
23 staff on that?

24 MR. HOSECK: Nothing further from staff.

25 MS. WIEST: Does staff have any witnesses?

1 MR. HOSECK: Yes. Staff has a witness,
2 Harlan Best, who I would call to the stand at this
3 time.

4 HARLAN BEST,

5 called as a witness, being first duly sworn,
6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. HOSECK:

9 Q. And for purposes of the record, Mr. Best,
10 testimony will be directed to all of the applicants of
11 this proceeding as it's noticed to date. I have an
12 exhibit which has been marked as Staff's Exhibit 1,
13 which I have distributed to the Commission at this time
14 and I will move into evidence just a little bit later.
15 State your name for the record, please.

16 A. Harlan Best.

17 Q. What's your job?

18 A. I am deputy director of fixed utilities with
19 the Public Utilities Commission, South Dakota.

20 Q. And are you familiar with the dockets as are
21 noticed in today's proceeding for applications for
22 eligible telecommunications carriers?

23 A. Yes.

24 Q. And are those the same companies that are
25 listed on Staff Exhibit No. 1?

1 A. Yes.

2 Q. And could you explain briefly for the record
3 what Staff Exhibit No. 1 is?

4 A. Exhibit 1 is a compilation of the respective
5 eligible telecommunications carriers' requests that are
6 before the Commission today.

7 Q. Do you have any corrections or additions that
8 you wish to make to Staff Exhibit No. 1?

9 A. I believe the one for column under Cheyenne
10 River Sioux Tribe Telephone Authority, I believe it's
11 correct as stated. But the Commission has requested
12 further information from CRST, specifically from the
13 manager, J. D. Williams, which would clarify the toll
14 control and the CRST's intent to implement Lifeline,
15 Link Up.

16 MR. HOSECK: Okay. With that correction, or
17 with that clarification, I would move Staff Exhibit No.
18 1 into the record.

19 MS. WIEST: Any objection? If not, it's been
20 admitted.

21 Q. Okay. With regard to the applicants as
22 noticed in these proceedings today, have you reviewed
23 their ability to meet the criteria set forth in 47
24 C.F.R. Section 54.101(a)?

25 A. Yes. Each of the companies did respond to

1 those, to the nine items set forth under that
2 requirement.

3 Q. And with regard to the Lifeline and Link Up
4 requirement, was there a response from all of the
5 applicants on that?

6 A. Yes, there was.

7 Q. And with regarding the designating of a
8 service area, was there a response from the applicants
9 on that issue?

10 A. Yes. The Respondents -- or the applicants
11 stated the exchanges and the prefixes where the ETC
12 request would apply.

13 Q. And with regard to the advertising of
14 services that might be available on an exchange-wide
15 basis, did the applicants address that issue?

16 A. Yes. The applicants stated that they would
17 be willing to advertise on a going-forward basis in
18 accordance with any specific advertising standards that
19 the Commission may develop. The CRST states that they
20 are advertising presently in media of general
21 distribution in their service area.

22 Q. Based upon your review of these facts as
23 represented by these applicants, in your opinion, have
24 the applicants presented the facts necessary for the
25 Commission to decide this ETC designation?

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1 A. With the exception of CRST, yes.

2 Q. Okay. And with regard to advertising
3 services exchange-wide, do you have a recommendation to
4 the Commission for a provision to be included in an
5 order which would come out of these proceedings?

6 A. Yes.

7 Q. And what is that recommendation?

8 A. That the telephone companies advertise their
9 rates annually or whenever a rate changes.

10 Q. And, finally, do you have an opinion as to
11 whether or not the applicants qualify for an ETC
12 designation?

13 A. Yes, I believe they do, with the caveat again
14 on CRST receiving -- the Commission receiving
15 additional information.

16 MR. HOSECK: I have no further questions of
17 this witness.

18 MS. WIEST: Any questions? Any further
19 witnesses?

20 MR. HOSECK: No further witnesses. Staff
21 rests.

22 MS. WIEST: At this point I believe we can
23 close the hearing and make the final decisions next
24 Thursday.

25 (A DISCUSSION WAS HELD OFF THE RECORD.)

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1 MS. WIEST: Let's go back on the record.

2 COMMISSIONER SCHOENFELDER: Well, I would
3 just like to have Mr. Coit ask J. D. Williams at the
4 Cheyenne River Telephone Authority if they don't have
5 more exchanges that they need to apply for other than
6 the Dupree and Isabel Exchanges; if, in fact, Eagle
7 Butte would not be an exchange that they would need ETC
8 designation for; and perhaps there might even about
9 another exchange in their tribal authority telephone
10 service area that they would need an ETC designation
11 for.

12 MR. COIT: I will do that, Commissioner.

13 COMMISSIONER SCHOENFELDER: Thank you.

14 MS. WIEST: Okay. Is there anything else at
15 this point?

16 MR. HOSECK: If that is the case, is this
17 something that can be handled through a supplemental
18 filing in this matter?

19 MS. WIEST: I believe the application might
20 have to be amended and then the questions whether also
21 Mr. Williams would have to amend or put in a
22 supplemental affidavit on this issue. Because we will
23 need -- I mean we certainly need it on the record that
24 all of these exchanges are requesting ETC designation.

25 MR. HOSECK: Well, for the record, why don't

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1 we just -- staff would just suggest that if that is
2 their desire, then to have them go ahead and amend
3 their application as it is presently before the
4 Commission and supplement their affidavit to make sure
5 that those criteria are met for those exchanges. And
6 then staff has no objection to the Commission
7 considering it on the record as --

8 MS. WIEST: As a late-filed exhibit?

9 MR. HOSECK: As a late-filed exhibit both as
10 to the amending of the petition and the supplemental
11 information that would be sent in. Does that sound
12 like something --

13 MR. COIT: That sounds very reasonable.

14 COMMISSIONER SCHOENFELDER: It's very
15 possible that, you know, I may be in error about there
16 being -- those being separate exchanges, but I do think
17 that since I feel that way about it, we need it
18 clarified, at least.

19 MS. WIEST: Okay. Any other questions or
20 comments? Thank you.

21 (THE HEARING CONCLUDED AT 2:30 P.M.)
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1 STATE OF SOUTH DAKOTA)
2)
3 COUNTY OF HUGHES)

4

5 I, Lori J. Grode, RMR, Notary Public, in and
6 for the State of South Dakota, do hereby certify that
7 the above hearing, pages 1 through 19, inclusive, was
8 recorded stenographically by me and reduced to
9 typewriting.

10 I FURTHER CERTIFY that the foregoing
11 transcript of the said hearing is a true and correct
12 transcript of the stenographic notes at the time and
13 place specified hereinbefore.

14 I FURTHER CERTIFY that I am not a relative or
15 employee or attorney or counsel of any of the parties,
16 nor a relative or employee of such attorney or counsel,
17 or financially interested directly or indirectly in
18 this action.

19 IN WITNESS WHEREOF, I have hereunto set my
20 hand and seal of office at Pierre, South Dakota, this
21 5th day of December, 1997.

22

23

24

25

Lori Grode
Lori J. Grode, RMR

ELIGIBLE TELECOMMUNICATIONS CARRIER REQUEST

Carrier Name Telephone Address City, State, Zip	Carrier Name Telephone Address City, State, Zip	Carrier Name Telephone Address City, State, Zip	Carrier Name Telephone Address City, State, Zip	Carrier Name Telephone Address City, State, Zip	Carrier Name Telephone Address City, State, Zip	Carrier Name Telephone Address City, State, Zip
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<p>1. Access to emergency services 2. Access to operator services 3. Access to long distance services 4. Access to international services 5. Access to specialty services 6. Access to special services 7. Access to special services 8. Access to special services 9. Access to special services 10. Access to special services</p>	<p>1. Access to emergency services 2. Access to operator services 3. Access to long distance services 4. Access to international services 5. Access to specialty services 6. Access to special services 7. Access to special services 8. Access to special services 9. Access to special services 10. Access to special services</p>	<p>1. Access to emergency services 2. Access to operator services 3. Access to long distance services 4. Access to international services 5. Access to specialty services 6. Access to special services 7. Access to special services 8. Access to special services 9. Access to special services 10. Access to special services</p>	<p>1. Access to emergency services 2. Access to operator services 3. Access to long distance services 4. Access to international services 5. Access to specialty services 6. Access to special services 7. Access to special services 8. Access to special services 9. Access to special services 10. Access to special services</p>	<p>1. Access to emergency services 2. Access to operator services 3. Access to long distance services 4. Access to international services 5. Access to specialty services 6. Access to special services 7. Access to special services 8. Access to special services 9. Access to special services 10. Access to special services</p>	<p>1. Access to emergency services 2. Access to operator services 3. Access to long distance services 4. Access to international services 5. Access to specialty services 6. Access to special services 7. Access to special services 8. Access to special services 9. Access to special services 10. Access to special services</p>	<p>1. Access to emergency services 2. Access to operator services 3. Access to long distance services 4. Access to international services 5. Access to specialty services 6. Access to special services 7. Access to special services 8. Access to special services 9. Access to special services 10. Access to special services</p>
<p>Yes to all customers</p>	<p>Yes to all customers</p>	<p>Yes to all customers</p>	<p>Yes to all customers</p>	<p>Yes to all customers</p>	<p>Yes to all customers</p>	<p>Yes to all customers</p>
<p>and service not provided; requesting a waiver</p>	<p>and service not provided; requesting a waiver</p>	<p>and service not provided; requesting a waiver</p>	<p>and service not provided; requesting a waiver</p>	<p>and service not provided; requesting a waiver</p>	<p>and service not provided; requesting a waiver</p>	<p>and service not provided; requesting a waiver</p>

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3. Nebcom in accordance with 47 CFR § 54.101 offers the following local exchange telecommunications services to all consumers throughout its service area:

- Voice grade access to the public switched network;
- Local exchange service including an amount of local usage free of per minute charges under a flat rated local service package;
- Single party service;
- Dual tone multi-frequency signaling;
- Access to emergency services such as 911 or enhanced 911 public services;
- Access to operator services;
- Access to interexchange service;
- Access to directory assistance; and
- Toll blocking service to qualified low-income consumers.

As noted above, Nebcom does provide toll limitation service in the form of toll blocking to qualifying consumers; however, the additional toll limitation service of "toll control" as defined in the new FCC universal service rules (47 CFR § 54.400(3)) is not provided. Nebcom is not aware that any local exchange carrier in South Dakota has a current capability to provide such service. The FCC gave no indication prior to the release of its universal service order (FCC 97-157) that toll control would be imposed as an ETC service requirement and, to our information and belief, as a result, LECs nationwide are not positioned to make the service immediately available. In order for Nebcom to provide the service, additional usage tracking and storage capabilities will have to be installed in its local switching equipment. At minimum, the service requires a switching software upgrade and at this time Nebcom is investigating and attempting to determine whether the necessary software has been developed and when it might become available.

Accordingly, Nebcom is faced with exceptional circumstances concerning its ability to make the toll control service available as set forth in the FCC's universal service rules and must request a waiver from the requirement to provide such service. At this time, a waiver for a period of one year is requested. Prior to the end of the one year period, Nebcom will report back to the Commission with specific information indicating when the necessary network upgrades can be made and the service can be made available to assist low income customers. The Commission may properly grant a waiver from the "toll control" requirement pursuant to 47 CFR 54.101(c).

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Additionally, Nebcom currently offers Link Up service, but does not currently offer Lifeline service within its exchanges. While providing Lifeline and Link Up services is not a precondition which must be met before ETC status can be granted by the Commission, the provision of these services is a requirement that must be met before a carrier can receive federal universal service support. Nebcom will offer Lifeline service as required by the FCC rules, 47 CFR 54.400 - 54.417, beginning January 1, 1998.

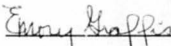
4. Nebcom, as a new company, has not previously advertised the availability or price of its local exchange services in media of general distribution throughout the exchange area served. It will do so going forward in accordance with any specific advertising standards that the Commission may develop.

5. Based on the foregoing, Nebcom respectfully requests that the Commission:

- a) grant a temporary waiver of the requirement to provide "toll control" service, and
- b) grant an ETC designation to Nebcom covering all of the local exchange area that constitutes its present service area in the State.

Dated this 2nd day of November, 1997.

Nebcom, Inc.



Emory Graffis, General Manager

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

IN THE MATTER OF THE FILING BY NEBCOM,)	FINDINGS OF FACT,
INC. FOR DESIGNATION AS AN ELIGIBLE	)	CONCLUSIONS OF LAW,
TELECOMMUNICATIONS CARRIER	)	ORDER AND NOTICE OF
	)	ENTRY OF ORDER
	)	TC97-179

On November 5, 1997, the Public Utilities Commission (Commission) received a request for designation as an eligible telecommunications carrier (ETC) from Nebcom, Inc. (Nebcom). Nebcom requested designation as an eligible telecommunications carrier within the local exchange areas that constitute its service area.

The Commission electronically transmitted notice of the filing and the intervention deadline to interested individuals and entities. No person or entity filed to intervene. By order dated November 21, 1997, the Commission set the hearing for this matter for 1:30 p.m. on December 2, 1997, in Room 464, State Capitol, Pierre, South Dakota.

The hearing was held as scheduled. At the hearing, the Commission granted Nebcom a one year waiver of the requirement to provide toll control service within its service area. At its December 11, 1997, meeting, the Commission granted ETC designation to Nebcom and designated its study area as its service area.

Based on the evidence of record, the Commission enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

I

On November 5, 1997, the Commission received a request for designation as an ETC from Nebcom. Nebcom requested designation as an ETC within the local exchange areas that constitute its service area. Nebcom serves the following exchange in South Dakota: North Bristow (587), Exhibit 1. Nebcom also operates exchanges in Nebraska and has received ETC designation from the Nebraska Public Service Commission. Id.

II

Pursuant to 47 U.S.C. § 214(e)(2), the Commission is required to designate a common carrier that meets the requirements of section 214(e)(1) as an ETC for a service area designated by the Commission.

III

Pursuant to 47 U.S.C. § 214(e)(1), a common carrier that is designated as an ETC is eligible to receive universal service support and shall, throughout its service area, offer the services that are supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services. The carrier must also advertise the availability of such services and the rates for the services using media of general distribution.

IV

The Federal Communications Commission (FCC) has designated the following services or functionalities as those supported by federal universal service support mechanisms: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equal; (4) single party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers. 47 C.F.R. § 54.101(a).

V

As part of its obligations as an ETC, an ETC is required to make available Lifeline and Link Up services to qualifying low-income consumers. 47 C.F.R. § 54.405; 47 C.F.R. § 54.411.

VI

Nebcom offers voice grade access to the public switched network to all consumers throughout its service area. Exhibit 1.

VII

Nebcom offers local exchange service including an amount of local usage free of per minute charges to all consumers throughout its service area. Id.

VIII

Nebcom offers dual tone multi-frequency signaling to all consumers throughout its service area. Id.

IX

Nebcom offers single party service to all consumers throughout its service area. Id.

X

Nebcom offers access to emergency services to all consumers throughout its service area. Id.

XI

Nebcom offers access to operator services to all consumers throughout its service area. Id.

XII

Nebcom offers access to interexchange services to all consumers throughout its service area. Id.

XIII

Nebcom offers access to directory assistance to all consumers throughout its service area. Id.

XIV

One of the services required to be provided by an ETC to qualifying low-income consumers is toll limitation. 47 C.F.R. § 54.101(a)(9). Toll limitation consists of both toll blocking and toll control. 47 C.F.R. § 54.400(d). Toll control is a service that allows consumers to specify a certain amount of toll usage that may be incurred per month or per billing cycle. 47 C.F.R. § 54.400(c). Toll blocking is a service that lets consumers elect not to allow the completion of outgoing toll calls. 47 C.F.R. § 54.400(b).

XV

Nebcom offers toll blocking to all consumers throughout its service area. Exhibit 1.

XVI

Nebcom does not currently offer toll control. Id. In order for Nebcom to provide toll control, additional usage tracking and storage capabilities will have to be installed in its local switching equipment. Nebcom is attempting to determine whether the necessary software has been developed and when it might become available. Id.

XVII

Nebcom stated that it is faced with exceptional circumstances concerning its ability to make toll control service available and requested a one year waiver from the requirement to provide such service. Id. Prior to the end of the one year period, Nebcom will report back to the Commission with specific information indicating when the network upgrades can be made in order to provide toll control. Id.

XVIII

With respect to the obligation to advertise the availability of services supported by the federal universal service support mechanism and the charges for those services using media of general distribution, Nebcom stated that it has not previously advertised the availability or prices of its local exchange services in media of general distribution throughout its service area. Id. Nebcom stated its intention to comply with any advertising standards developed by the Commission. Id.

XIX

Nebcom does not currently offer Lifeline service but does offer Link Up service discounts in its exchanges. Id. Nebcom will offer the Lifeline and Link Up service discounts in all of its service area beginning January 1, 1998, in accordance with 47 C.F.R. §§ 54.400 to 54.417, inclusive. Id.

XX

The Commission finds that Nebcom currently provides and will continue to provide the following services or functionalities throughout its service area: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling; (4) single-party service; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll blocking for qualifying low-income consumers.

XXI

The Commission finds that pursuant to 47 C.F.R. § 54.101(c) it will grant Nebcom a waiver of the requirement to offer toll control services until December 31, 1998. The Commission finds that

exceptional circumstances prevent Nebcom from providing toll control at this time due to the difficulty in obtaining the necessary software upgrades to provide the service.

XXII

The Commission finds that Nebcom intends to provide Lifeline and Link Up programs to qualifying customers throughout its service area consistent with state and federal rules and orders.

XXIII

The Commission finds that Nebcom shall advertise the availability of the services supported by the federal universal service support mechanism and the charges therefor throughout its service area using media of general distribution once each year. The Commission further finds that if the rate for any of the services supported by the federal universal service support mechanism changes, the new rate must be advertised using media of general distribution.

XXIV

Pursuant to 47 U.S.C. § 214(e)(5), the Commission designates Nebcom's current study area as its service area.

CONCLUSIONS OF LAW

I

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-31, and 47 U.S.C. § 214.

II

Pursuant to 47 U.S.C. § 214(e)(2), the Commission is required to designate a common carrier that meets the requirements of section 214(e)(1) as an ETC for a service area designated by the Commission.

III

Pursuant to 47 U.S.C. § 214(e)(1), a common carrier that is designated as an ETC is eligible to receive universal service support and shall, throughout its service area, offer the services that are supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services. The carrier must also advertise the availability of such services and the rates for the services using media of general distribution.

IV

The FCC has designated the following services or functionalities as those supported by federal universal service support mechanisms: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equal; (4) single party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers. 47 C.F.R. § 54.101(a).

V

As part of its obligations as an ETC, an ETC is required to make available Lifeline and Link Up services to qualifying low-income consumers. 47 C.F.R. § 54.405; 47 C.F.R. § 54.411.

VI

Nebcom has met the requirements of 47 C.F.R. § 54.101(a) with the exception of the ability to offer toll control. Pursuant to 47 C.F.R. § 54.101(c), the Commission concludes that Nebcom has demonstrated exceptional circumstances that justify granting it a waiver of the requirement to offer toll control until December 31, 1998.

VII

Nebcom shall provide Lifeline and Link Up programs to qualifying customers throughout its service area consistent with state and federal rules and orders.

VIII

Nebcom shall advertise the availability of the services supported by the federal universal service support mechanism and the charges therefor using media of general distribution once each year. If the rate for any of the services supported by the federal universal service support mechanism changes, the new rate shall be advertised using media of general distribution.

IX

Pursuant to 47 U.S.C. § 214(e)(5), the Commission designates Nebcom's current study area as its service area.

X

The Commission designates Nebcom as an eligible telecommunications carrier for its service area.

It is therefore

ORDERED, that Nebcom's current study area is designated as its service area; and it is

FURTHER ORDERED, that Nebcom shall be granted a waiver of the requirement to offer toll control services until December 31, 1998; and it is

FURTHER ORDERED, that Nebcom shall follow the advertising requirements as listed above; and it is

FURTHER ORDERED, that Nebcom is designated as an eligible telecommunications carrier for its service area.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 17th day of December, 1997. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

01444503
Dated at Pierre, South Dakota, this 17th day of December, 1997.

CERTIFICATE OF SERVICE

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.

By Aelsie Kalbo

Date 12/18/97

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

TC97-179

NebCom, Inc.

110 East Elk Street, PO Box 70, Jackson, NE 68743
Phone 402-632-9311

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

December 29, 1997

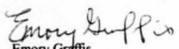
Mr. Bill Bullard
South Dakota Public Utilities Commission
500 East Capitol
Pierre, South Dakota 57501

Dear Mr. Bullard:

We are enclosing a copy of Nebcom Inc.'s Lifeline and Link Up Plan which is consistent with the criteria in South Dakota Public Utilities Commission's Docket TC97-150. (also enclosed) and in 47 CFR 54.400 - 54.417.

Please call Loretta Calabro of TELEC Consulting Resources, (402) 398-0062, with any questions you may have on this matter.

Yours truly,


Emory Graffis
General Manager

LIFELINE AND LINK UP PLAN OF NEBCOM, INC.

Nebcom, Inc. submits this plan pursuant to 47 CFR § 54.401(d). Nebcom, Inc. has been designated as an eligible telecommunications carrier by the South Dakota Public Utilities Commission ("SDPUC") and, as such, must make Lifeline and Link Up service available to qualifying low-income consumers as set forth in the Commission's Final Order and Decision, Notice of Entry of Decision dated November 18, 1997, issued in Docket TC97-150 (In the Matter of the Investigation into the Lifeline and Link Up Programs), which is attached as Exhibit A, and consistent with the criteria established under 47 CFR §§ 54.400 to 54.417, inclusive.

A. General

1. The Lifeline and Link Up programs assist qualified low-income consumers by providing for reduced monthly charges and reduced connection charges for local telephone service. The assistance applies to a single telephone line at a qualified consumer's principal place of residence.
2. A qualified low-income consumer is a telephone subscriber who participates in at least one of the following public assistance programs:
 - a. Medicaid
 - b. Food Stamps
 - c. Supplemental Security Income (SSI)
 - d. Federal Public Housing Assistance
 - e. Low-Income Home Energy Assistance Program (LHEAP)
3. A qualified low-income consumer is eligible to receive either or both Lifeline and Link Up assistance.
4. Nebcom, Inc. will advertise the availability of Lifeline and Link Up services and the charges therefore using media of general distribution and in accord with any rules that may be developed by the SDPUC for application to eligible telecommunications carriers.
5. In addition, Nebcom, Inc., as required by the Final Order and Decision; Notice of Entry of Decision of the SDPUC (Exhibit A), will indicate in its annual report to the SDPUC the number of subscribers within its service area receiving Lifeline and/or Link Up assistance. In addition, this information will be provided to the Universal Service Administrative Company ("USAC").
6. Information as to the number of consumers qualifying for Lifeline and/or Link Up assistance cannot currently be provided by Nebcom, Inc.

because it has no access to the government information necessary to determine how many of its telephone subscribers are participating in the above referenced public assistance programs. Without this information, Nebcom, Inc. cannot provide, at this time, even a reasonable estimate of the number of its subscribers who, after January 1, 1998, will be receiving Lifeline and/or Link Up service. Information as to the number of its low-income subscribers qualifying for Lifeline and/or Link Up can be provided after applications for Lifeline and Link Up assistance have been received by Nebcom, Inc.

7. In accord with the SDPUC's Final Order and Decision, Notice of Entry of Decision, Nebcom, Inc. will make application forms available to all of its existing residential customers, to all new customers when they apply for residential local telephone service, and to other persons or entities upon their request.

B. Lifeline

1. Lifeline service means a retail local service offering for which qualified low-income consumers pay reduced charges.

2. Lifeline service includes voice grade access to the public switched network, local usage, dual tone multi-frequency signaling or its functional equivalent, single-party service or its functional equivalent, access to emergency services, access to operator services, access to interexchange service, access to directory assistance, and toll limitation.

3. Qualified low-income subscribers are required to submit an application form in order to receive Lifeline service. In applying for Lifeline assistance, the subscriber must certify under penalty of perjury that they are currently participating in at least one of the qualifying public assistance programs listed in Section A 2, above. In addition, the subscriber must agree to notify Nebcom, Inc. when they cease participating in the qualifying public assistance program(s).

4. The total monthly Lifeline credit available to qualified consumers is \$5 25. Nebcom, Inc. shall provide the credit to qualified consumers by applying the federal baseline support amount of \$3 50 to waive the consumer's federal End-User Common Line charge and applying the additional authorized federal support amount of \$1 75 as a credit to the consumer's intrastate local service rate. The federal baseline support amount and additional support available, totaling \$5 25, shall reduce Nebcom, Inc.'s lowest tariffed (or otherwise generally available) residential rate for the services listed above in Section B 3. Per the attached SDPUC Final Order and Decision, Notice of Entry of Decision, the SDPUC has authorized intrastate rate reductions for eligible telecommunications carriers

making the additional federal support amount of \$1.75 available. The SDPUC did not establish a state Lifeline program to fund any further rate reductions. (Exhibit A, Findings of Fact VII and VIII, and Conclusions of Law II and III)

5. Nebcom, Inc. will not disconnect subscribers from their Lifeline service for non-payment of toll charges unless the SDPUC, pursuant to 47 CFR § 54.401(b)(1), has granted the company a waiver from the non-disconnect requirement.

6. Except to the extent that Nebcom, Inc. has obtained a waiver from the SDPUC pursuant to 47 CFR § 54.101(c), the company shall offer toll limitation to all qualifying low-income consumers when they subscribe to Lifeline service. If the subscriber elects to receive toll limitation, that service shall become part of that subscriber's Lifeline service.

7. Nebcom, Inc. will not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll blocking on their telephone line. However, one month's local service charges may be required as an advance payment.

C. Link Up

1. Link Up means:

(a) A reduction in the customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence. The reductions shall be 50 percent of the customary charge or \$30.00, whichever is less, and

(b) A deferred schedule for payment of the charges assessed for commencing service, for which the consumer does not pay interest. The interest charges not assessed to the consumer shall be for connection charges of up to \$200.00 that are deferred to a period not to exceed one year.

2. Charges assessed for commencing service include any charges that are customarily assessed for connecting subscribers to the network. These charges do not include any permissible security deposit requirements.

3. The Link Up program shall allow a consumer to receive the benefit of the Link Up program for a second or subsequent time only for a principal place of residence with an address different from the residence address at which the Link Up assistance was provided previously.

Neboom, Inc.
P. O. Box 70
Jackson, NE 68743
(888)686-9311

By Erroy Gaffin General Manager
Name Position

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

IN THE MATTER OF THE INVESTIGATION) INTO THE LIFELINE AND LINK UP) PROGRAMS)	FINAL ORDER AND) DECISION; NOTICE OF) ENTRY OF DECISION) TC97-150
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At its August 18, 1997, regularly scheduled meeting, the Public Utilities Commission (Commission) voted to open a docket concerning the Federal Communications Commission's (FCC's) Report and Order on Universal Service regarding the Lifeline and Link Up programs. In its Report and Order, the FCC decided that it would provide for additional federal support in the amount of \$1.75, above the current \$3.50 level. However, in order for a state's Lifeline consumers to receive the additional \$1.75 in federal support, the state commission must approve that reduction in the portion of the intrastate rate paid by the end user. 47 C.F.R. § 54.403(a). Additional federal support may also be received in an amount equal to one-half of any support generated from the intrastate jurisdiction, up to a maximum of \$7.00 in federal support. 47 C.F.R. § 54.403(a). A state commission must file or require the carrier to file information with the administrator of the federal universal service fund demonstrating that the carrier's Lifeline plan meets the criteria set forth in 47 C.F.R. § 54.401.

By order dated August 28, 1997, the Commission allowed interested persons and entities to submit written comments concerning how the Commission should implement the FCC's rules on the Lifeline and Link Up programs. In their written comments, interested persons and entities commented on the following questions:

1. Whether the Commission should approve intrastate rate reductions to allow consumers eligible for Lifeline support to receive the additional \$1.75 in federal support?
2. Whether the Commission should set up a state Lifeline Program to fund further reductions in the intrastate rate paid by the end user?
3. Whether the Commission should modify the existing Lifeline or Link Up Programs?
4. Shall the Commission file or require the carrier to file information with the administrator of the federal universal service fund demonstrating that the carrier's Lifeline plan meets the criteria set forth in 47 C.F.R. § 54.401(d)?

By order dated October 16, 1997, the Commission set public hearings to receive public comment on the questions listed above. The hearings were held at the following times and places:

<u>RAPID CITY</u>	Monday, October 27, 1997, 1:00 p.m., Canyon Lake Senior Citizens Center, 2900 Canyon Lake Drive, Rapid City, SD
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PIERRE: Tuesday, October 28, 1997, 1:30 p.m., State Capitol Building, Room 412, 500 East Capitol Avenue, Pierre, SD

SIoux FALLS: Wednesday, October 29, 1997, 9:00 a.m., Center for Active Generations, 2300 West 46th, Sioux Falls, SD

At its November 7, 1997, meeting, the Commission ruled as follows: On the first issue, the Commission authorized intrastate rate reductions to allow eligible consumers to receive the additional \$1.75 in federal support. With respect to the second issue, the Commission decided to not set up a state Lifeline program to fund further reductions at this time. On the third issue, the Commission eliminated the existing TAP program that requires U S WEST and carriers that have purchased U S WEST exchanges to fund a \$3.50 reduction of local rates to low income customers age 60 and over. The Commission further ruled that the South Dakota Link Up program follow the FCC rules. In addition, the Commission ordered that staff, in consultation with the carriers, develop a standard form for self-certification; that these forms be sent to all of their customers prior to January 1, 1998, and thereafter, to all new customers; and that the carriers make the forms available to any person or entity upon request. On the fourth issue, the Commission ruled that the carrier be required to file with the FCC the information demonstrating that the carrier's plan meets the applicable FCC criteria and that the carrier send an informational copy to the Commission. Further, that the carriers include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

Based on the written comments and evidence and testimony received at the hearings, the Commission makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

I

The current state Lifeline program is referred to as the Telephone Assistance Plan (TAP). The current state Link Up program is referred to as the Link Up America program. The Commission implemented these programs in the U S WEST exchanges pursuant to its Decision and Order dated February 17, 1988, issued in Docket F-3703, In the Matter of the Investigation into Implementation of a Telephone Assistance Plan for South Dakota Customers. Exhibit 1 at page 1. Subsequent buyers of U S WEST exchanges were required to also offer the TAP and Link Up America programs. Id. at pages 1-2.

II

The amount of TAP assistance is \$7.00, \$3.50 of which is federally funded, with the remaining \$3.50 funded by the local telecommunications carrier. Id. at page 3. Although U S WEST was originally allowed to charge a surcharge to fund the program, U S WEST subsequently gave up that right in Docket F-3647-8, In the Matter of the Public Utilities Commission Investigation into the Effects of the 1986 Tax Reform Act on South Dakota Utilities. Exhibit 5. In order to receive the TAP assistance, a member of the household

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must be 60 years of age or older and participate in either the food stamp or the low-income energy assistance program. Exhibit 1 at page 2.

III

The Link Up America program provides assistance in an amount equal to one-half of the qualifying subscriber's telephone service connection charges up to a maximum of \$30.00. *Id.* at page 3. In order to receive Link Up assistance, a customer must be receiving either food stamps or low-income energy assistance, must not presently have local telephone service and must not have been provided telephone service at his or her residence within the previous three months, and must not be a dependent for federal income tax purposes (dependency criteria does not apply to those 60 years of age or older). *Id.* The Link Up program is funded entirely out of federal funds. *Id.*

IV

The FCC revised the current Lifeline and Link Up programs in CC Docket No. 96-45, In the Matter of Federal-State Joint Board on Universal Service, adopted May 7, 1997. Beginning January 1, 1998, the FCC found that the federal baseline Lifeline support will be \$3.50 per qualifying low-income consumer with an additional \$1.75 in federal support if the state commission approves a corresponding reduction in intrastate local rates. 47 C.F.R. § 54.403(a). Additional federal Lifeline support in an amount equal to one-half the amount of any state Lifeline support (not to exceed \$7.00) is also available. *Id.*

V

The FCC further found that the federal support for Link Up will continue to be a reduction in the telecommunications carrier's service connection charges equal to one half of the carrier's customer connection charge or \$30.00, whichever is less. 47 C.F.R. § 54.413(b).

VI

Pursuant to the FCC's rules, if there is no state Lifeline or Link Up program, a consumer is eligible for support if the consumer participates in one of the following programs: Medicaid, food stamps; Supplemental Security Income; federal public housing assistance; or the Low-Income Home Energy Assistance Program. 47 C.F.R. §§ 54.409(b) and 54.415(b). In addition, if there is no state Lifeline or Link Up program, a customer must certify under penalty of perjury that the customer is receiving benefits from one of the programs listed above and agrees to notify the carrier if the customer ceases to participate in such program or programs. *Id.*

VII

The first issue is whether the Commission should approve intrastate rate reductions to allow consumers eligible for Lifeline support to receive the additional \$1.75 in federal

support. The Commission finds that it shall authorize intrastate rate reductions for eligible telecommunications companies providing local exchange service to allow eligible consumers to receive the additional \$1.75 in federal support. Thus, the total amount of federal support is \$5.25 per eligible customer.

VIII

The second issue is whether the Commission should set up a state Lifeline program to fund further reductions in the intrastate rate paid by the end user. The Commission finds it will not set up a state Lifeline program to fund further reductions at this time.

IX

The third issue is whether to modify or eliminate the existing Lifeline program or Link Up program. With respect to the existing Lifeline program, the Commission finds that it shall eliminate the existing TAP program that requires U S WEST and carriers that have purchased U S WEST exchanges to fund a \$3.50 reduction of local rates to low income customers age 60 and over. The Commission further finds that the South Dakota Lifeline and Link Up programs shall follow the FCC rules. See 47 U.S.C. §§ 54.400 to 54.417. The effect of following the FCC rules and not instituting further state funded reductions is that the FCC eligibility requirements and self-certification requirements will apply to the South Dakota Lifeline and Link Up programs. In addition, the Commission orders that the Commission staff, in consultation with the carriers, develop a standard form for self-certification. The carriers shall send these forms to each customer prior to January 1, 1998. The carriers shall also send a form to each of their new customers. Finally, the carriers shall make the forms available to any person or entity upon request.

X

The fourth issue is whether the Commission should file, or in the alternative, require the carrier to file information with the fund administrator. See 47 C.F.R. § 54.401(d). The Commission finds the carriers shall be required to file that information demonstrating that the carrier's plan meets the applicable FCC rules and that the carrier send an informational copy to the Commission. The carriers shall also be required to include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

CONCLUSIONS OF LAW

I

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-1.1, 49-31-3, 49-31-7, 49-31-7.1, 49-31-11, 49-31-12.1, 49-31-12.2 and 12.4, and 47 C.F.R. §§ 54.400 to 54.417.

II

Pursuant to 47 C.F.R. § 54.403(a), the Commission authorizes intrastate rate reductions for eligible telecommunications companies providing local exchange service to allow eligible consumers to receive the additional \$1.75 in federal support.

III

The Commission declines to institute a state Lifeline program to fund further reductions at this time. The existing South Dakota Lifeline and Link Up programs shall be modified to follow the FCC rules found at 47 U.S.C. §§ 54.400 to 54.417, inclusive, on January 1, 1998. The Commission staff, in consultation with the carriers, shall develop a standard form for self-certification. The carriers shall send these forms to each customer prior to January 1, 1998. The carriers shall also send a form to each of their new customers. Finally, the carriers shall make the forms available to any person or entity upon request.

IV

Pursuant to 47 C.F.R. § 54.401(d), the Commission finds the carriers shall be required to file that information demonstrating that the carrier's plan meets the applicable FCC rules and that the carrier send an informational copy to the Commission. The carriers shall also be required to include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

It is therefore

ORDERED, that the Commission authorizes intrastate rate reductions for eligible telecommunications companies providing local exchange service to allow eligible consumers to receive the additional \$1.75 in federal support; and it is

FURTHER ORDERED, that the Commission will not set up a state Lifeline program to fund further reductions at this time; and it is

FURTHER ORDERED, that the Commission shall eliminate the existing TAP program; that the South Dakota Lifeline and Link Up programs follow the FCC rules; that the Commission staff, in consultation with the carriers, develop a standard form for self-certification; that the carriers shall send these forms to all of their customers prior to January 1, 1998; that the carriers shall also send a form to each of their new customers; and that the carriers make the forms available to any person or entity upon request; and it is

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FURTHER ORDERED, that the carrier shall file with the FCC the information demonstrating that the carrier's plan meets the applicable FCC rules and that the carrier send an informational copy to the Commission. The carriers shall also include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

Dated at Pierre, South Dakota, this 18th day of November, 1997.

CERTIFICATE OF SERVICE	
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.	
By:	<u>Alvin Kalbs</u>
Date:	<u>11/18/97</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner