

TC97-185

KC/HR

TC 97-185

DOCKET NO.

In the Matter of

IN THE MATTER OF THE FILING BY
CONSOLIDATED TELEPHONE
COOPERATIVE FOR DESIGNATION AS
AN ELIGIBLE TELECOMMUNICATIONS
CARRIER

Public Utilities Commission of the State of South Dakota

| DATE | MEMORANDA |
|----------|--|
| 11/20/97 | Filed and Indexed. |
| 11/20/97 | TC for Filing. |
| 11/21/97 | Order for and Notice of Hearing, |
| 12/5/97 | Draft of Hearing Bill on 12/3/97, |
| 12/17/97 | Exchanged with, to discuss of law, Order and Notice of Entry of Order, |
| 12/17/97 | Booklet Closed. |

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HOWE, HARDY, GALLOWAY & MAUS, P.C.

TC97-185

ATTORNEYS AT LAW

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November 17, 1997

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Mr. William Bullard, Jr., Executive Director
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, SD 57501-5070

Re: Consolidated Telephone Cooperative and CTC Communications, Inc.

Dear Mr. Bullard:

The attached is submitted by Consolidated Telephone Cooperative and CTC Communications, Inc., seeking designation for Eligible Telecommunications Carrier. Included is one original of each and ten copies.

Sincerely,

HOWE, HARDY, GALLOWAY & MAUS, P.C.



Michael J. Maus

MJM:ljl

Enclosures

cc: Consolidated Telephone Cooperative

South Dakota
Public Utilities Commission
State Capitol 500 E. Capitol
Pierre, SD 57501-5070
Phone: (800) 332-1782
Fax: (605) 773-3809

TELECOMMUNICATIONS SERVICE FILINGS

These are the telecommunications service filings that the Commission has received for the period of:

11/14/97 through 11/20/97

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.

| DOCKET NUMBER | TITLE/STAFF/SYNOPSIS | DATE FILED | INTERVENTION DEADLINE |
|---|---|------------|-----------------------|
| REQUEST FOR ELIGIBLE TELECOMMUNICATIONS COMPANY STATUS | | | |
| TC97-185 | Consolidated 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. Consolidated Telephone Cooperative is the facilities based local exchange carrier presently providing local exchange telecommunications services in the following exchanges in South Dakota: (605) 278 South Scranton, (605) 576 South Ladd, and (605) 855 South Reeder. Consolidated Telephone Cooperative, to its knowledge, is the only carrier today providing local exchange telecommunications service in the above exchange area. (Staff: HB/KC) | 11/20/97 | 11/28/97 |
| TC97-186 | CTC 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. CTC Communications, Inc. is the facilities based local exchange carrier presently providing local exchange telecommunications services in the following exchange in South Dakota: (605) 564 South Hettinger. CTC Communications, Inc., to its knowledge, is the only carrier today providing local exchange telecommunications service in the above exchange area. (Staff: HB/CH) | 11/20/97 | 11/28/97 |

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 Norum at: terryn@nrc.state.sd.us Faxing the address to the Commission at: 605-773-3809

**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.

| |
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| <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

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THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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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

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A P P E A R A N C E S

COMMISSION STAFF

PRESENT:

Rolayne Ailts Wiest
Camron Hoseck
Harlan Best

ALSO PRESENT:

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

I N D E X

WITNESSES:

Harlan Best

PAGE:

14

P R O C E E D I N G S

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

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

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

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

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

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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

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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

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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

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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.

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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

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?

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

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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0144:68:23

1 STATE OF SOUTH DAKOTA)
2 COUNTY OF HUGHES)

3
4 I, Lori J. Grode, RMR, Notary Public, in and
5 for the State of South Dakota, do hereby certify that
6 the above hearing, pages 1 through 19, inclusive, was
7 recorded stenographically by me and reduced to
8 typewriting.

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

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

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

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22
23
24
25

Lori Grode
Lori J. Grode, RMR

Dietary Needs
Telephone
Cooperative

own by J.D. Williams

0144.68.25

1201167

TC97-185

RECEIVED

BEFORE THE PUBLIC UTILITIES COMMISSION

NOV 20 1997

OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE REQUEST OF)
 CONSOLIDATED TELEPHONE COOPERATIVE) **REQUEST FOR**
 FOR DESIGNATION AS AN ELIGIBLE) **ETC DESIGNATION**
 TELECOMMUNICATIONS CARRIER)

Consolidated Telephone Cooperative, Dickinson, North Dakota, pursuant to 47 United States Code Section 214(e), and 47 Code of Federal Regulations Section 54.201 hereby seeks from the Public Utilities Commission ("Commission") designation as an "Eligible Telecommunications Carrier" within the local exchange area that constitutes its service area in South Dakota. In support of this request, Consolidated Telephone Cooperative offers the following:

1. Pursuant to 47 U.S.C. Section 214(e), it is the Commission's responsibility to designate local exchange carriers ("LECs") as "eligible telecommunications carriers" ("ETC"), or in other words, to determine which LECs have assumed universal service obligations consistent with the federal law and should be deemed eligible to receive federal universal service support. At least one eligible telecommunications carrier is to be designated by the Commission for each service area in the State. However, in the case of areas served by "rural telephone companies", the Commission may not designate more than one LEC as an ETC without first finding that such additional designation would be in the public interest. Under 47 C.F.R., Section 54.201, beginning January 1, 1998, only telecommunications carriers within their service area will be eligible to receive federal universal service support.

2. Consolidated Telephone Cooperative is the facilities based local exchange carrier presently providing local exchange telecommunications services in the following exchange in South Dakota:

| <u>Name</u> | <u>Total Access Lines</u> | <u>Exchange Prefix/Name</u> |
|------------------------|---------------------------|-----------------------------|
| Consolidated Telephone | 36 | 278 - South Scranton |
| Cooperative | 45 | 576 - South Ladd |
| | 75 | 855 - South Reeder |



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In the ordinary course of business the number of access lines are subject to change. Consolidated Telephone Cooperative, to its knowledge, is the only carrier today providing local exchange telecommunications service in the above exchange area.

3. Consolidated Telephone Cooperative, in accord with 47 C.F.R., Section 54.101, offers the following local exchange telecommunications services to all customers throughout its service area:

- Voice grade access to the public switched network;
- Local exchange service including an amount of local usage free of per minutes charges under a flat rated local service package;
- Dual tone multi-frequency signaling;
- Access to emergency service 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 customers and all others.

As noted above, Consolidated Telephone Cooperative does provide toll limitation service in the form of toll blocking to qualified members, however, the additional toll limitation service of "toll control" as defined in the new FCC universal service rules (47 C.F.R., Section 54.400(3)) is not provided. Consolidated Telephone Cooperative 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, LEC's nationwide are not positioned to make the service immediately available. In order for Consolidated Telephone

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Cooperative 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, Consolidated Telephone Cooperative is investigating and attempting to determine whether the necessary software has been developed and when it might become available.

Accordingly, Consolidated Telephone Cooperative is faced with exceptional circumstances concerning the 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 is requested. The Commission may properly grant a waiver from the "toll control" requirement pursuant to 47 C.F.R., Section 54.101(c).

4. Consolidated Telephone Cooperative has previously and will continue to advertise the availability of its local exchange services in media of general distribution throughout the exchange area served. Prior to this filing, Consolidated Telephone Cooperative has not generally advertised the prices charged for all of the above identified services. It will do so going forward in accord with any specific advertising standards that the Commission may develop.

5. Pursuant to 47 C.F.R., Section 54.101(a)(4), Single Party Service is being offered by Consolidated Telephone Cooperative to all customers in the South Dakota telephone exchange. Beginning January 1, 1998, Lifeline and Link Up service will be offered under new terms in accord with the FCC rules, 47 C.F.R., Sections 54.400 and 54.417, and any South Dakota Public Utilities Commission decisions concerning implementation of the expanded programs.

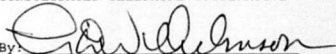
6. Based on the foregoing, Consolidated Telephone Cooperative respectfully requests that the Commission:

- (a) Grant a waiver of the requirement to provide "toll control" service; and
- (b) Grant an ETC designation to Consolidated Telephone

Cooperative covering all of the local exchange area that constitutes its present service area in the State.

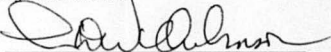
Dated this 17th day of November, 1997.

CONSOLIDATED TELEPHONE COOPERATIVE

By: 
L. Dan Wilhelmson


STATE OF NORTH DAKOTA)
 ss
COUNTY OF STARK)

L. Dan Wilhelmson, being first duly sworn, states that I am the General Manager and Chief Executive Officer of Consolidated Telephone Cooperative, that I have read the Eligible Telecommunications Carrier (ETC") application, and the same is true to my best information, knowledge and belief.


L. Dan Wilhelmson

Subscribed and sworn to before me this 17th day of November, 1997.

(SEAL)


Michael J. Maus, Notary Public
State of North Dakota
My Comm. Expires: 07/05/02

0144-68-38

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

| | |
|--------------------------------------|---------------------|
| IN THE MATTER OF THE FILING BY) | FINDINGS OF FACT, |
| CONSOLIDATED TELEPHONE COOPERATIVE) | CONCLUSIONS OF LAW, |
| FOR DESIGNATION AS AN ELIGIBLE) | ORDER AND NOTICE OF |
| TELECOMMUNICATIONS CARRIER) | ENTRY OF ORDER |
| | TC97-185 |

On November 20, 1997, the Public Utilities Commission (Commission) received a request for designation as an eligible telecommunications carrier (ETC) from Consolidated Telephone Cooperative (Consolidated Telephone). Consolidated Telephone 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 Consolidated Telephone 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 Consolidated Telephone 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 20, 1997, the Commission received a request for designation as an ETC from Consolidated Telephone. Consolidated Telephone requested designation as an ETC within the local exchange areas that constitute its service area. Consolidated Telephone serves the following exchanges in South Dakota: South Scranton (278); South Ladd (576); and South Reeder (855). Exhibit 1.

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

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

VII

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

VIII

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

IX

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

X

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

XI

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

XII

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

XIII

Consolidated Telephone 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

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

XVI

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

XVII

Consolidated Telephone stated that it is faced with exceptional circumstances concerning its ability to make toll control service available and requested a waiver from the requirement to provide such service. 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, Consolidated Telephone stated that it advertises the availability of its local exchange services in media of general distribution throughout its service area. However, Consolidated Telephone has not generally advertised the prices for these services. Id. Consolidated Telephone stated its intention to comply with any advertising standards developed by the Commission. Id.

XIX

Consolidated Telephone currently does not offer Lifeline and Link Up service discounts in its exchanges. Id. Consolidated Telephone 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, and any Commission imposed requirements. Id.

XX

The Commission finds that Consolidated Telephone 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 Consolidated Telephone a waiver of the requirement to offer toll control services until December 31, 1998. The Commission finds that exceptional circumstances prevent Consolidated Telephone 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 Consolidated Telephone 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 Consolidated Telephone 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 Consolidated Telephone'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

Consolidated Telephone 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 Consolidated Telephone has demonstrated exceptional circumstances that justify granting it a waiver of the requirement to offer toll control until December 31, 1998.

VII

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

VIII

Consolidated Telephone 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 Consolidated Telephone's current study area as its service area.

X

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

It is therefore

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

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

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

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

0144.68.335

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.

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 Nellie Kaelbo

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