

TC97-193

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RECEIVED

DEC 04 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

WRITER'S DIRECT EMAIL ADDRESS:
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December 8, 1997

Via Overnight Delivery

Mr. William Bullard
Executive Secretary
South Dakota Public Utilities Commission
State Capitol
500 E. Capitol Avenue
Pierre, SD 57501

Re: Application of New Century Telecom, Inc. to Provide Intrastate Resale Telecommunications Services in South Dakota

Dear Mr. Bullard:

On behalf of New Century Telecom, Inc., we hereby submit an original and eight (8) copies of the application of New Century Telecom, Inc. for a Certificate of Public Convenience and Necessity to provide intrastate telecommunications resale services.

Please date-stamp the extra copy and return it to the undersigned in the enclosed postage-prepaid envelope. Should you have any questions with respect to this matter, please contact me.

Respectfully submitted,



Kristopher E. Twomey

Enclosures

TC97-193

BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF
SOUTH DAKOTA

APPLICATION FOR AUTHORIZATION TO PROVIDE
INTRASTATE TELECOMMUNICATIONS RESALE SERVICES
OF
NEW CENTURY TELECOM, INC.
8180 GREENSBORO DRIVE, SUITE 700
McLEAN, VA 22102

Kristopher E. Twomey
Helein & Associates, P.C.
8180 Greensboro Drive, Suite 700
McLean, VA 22102
Telephone No.: (703) 714-1300
Facsimile No.: (703) 714-1330

Docket No. _____

In the Matter of)
NEW CENTURY TELECOM, INC.)
Application for Authorization to)
Provide Intrastate)
Telecommunications Resale Services)

To the Commission:

APPLICATION OF NEW CENTURY TELECOM, INC.

New Century Telecom, Inc. ("New Century") of McLean, Virginia herewith respectfully petitions for authorization to provide its telecommunications resale services on an intrastate basis. In support of this application, the following is shown:

A. Corporate Information

1. New Century is a corporation formed in the State of Virginia. A copy of Applicant's articles of incorporation is attached to this petition as Exhibit 1.
2. The Company's principal offices are located at 8160 Greensboro Drive, Suite 700, McLean, VA 22102.
3. New Century's President is Charles H. Helein and its Executive Vice President is Robert Schneberger.
4. New Century's officers and directors are listed in Exhibit 2.

1. 4. 0413

5. A certificate to do business as a foreign corporation has been applied for and will be forwarded to the SDPSC when it is issued as Exhibit 3.

6. The Company's registered agent to receive service is listed in Exhibit 4.

7. No persons serving either by elections or appointment as officers, directors, incorporators and persons controlling or holding more than 10% of the issued and outstanding common shares or 10% of any other proprietary, beneficial or membership interest in the corporation have been convicted of a felony involving a transaction in securities, consumer fraud or antitrust in any state or federal jurisdiction; have been convicted of a felony, the essential elements of which consisted of fraud, misrepresentation, theft by false pretenses, of restraining the trade or monopoly in any state or federal jurisdiction; have been or are subject to an injunction, judgment, decree, or permanent order of any state or federal court where such injunction, judgment, decree or permanent order involved the violation of fraud or registration provisions of the securities laws of that jurisdiction, involved the violation of the consumer fraud laws of that jurisdiction, or involved the violation of the antitrust or restraint of trade laws of that jurisdiction.

8. The Company, and its shareholders and directors have not had, and have no interest in any entity that has had any regulatory approval denied, revoked or suspended, nor are they, individually or collectively, involved in any proceeding to deny, revoke or

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suspend any regulatory approval.

B. Description of Services

9. New Century is a switchless reseller which provides or which will provide interstate, interexchange long distance telephone service using the networks of various carriers. Intrastate interLATA and, where permitted, intraLATA telecommunication services will also be offered to the public on a resale basis. New Century presently provides interstate "switchless resale" in twenty-nine states. New Century is extending its service to meet the intrastate needs of its customers is filing the requisite applications in all other states to be certified as required. New Century currently has applications pending in nine other states. New Century proposes to provide service throughout the state of South Dakota.

10. At present, New Century employs no switches or network facilities of its own because those are or will be provided by New Century's underlying carrier. New Century's underlying carrier currently is IXC Long Distance, Inc. The Company provides service to commercial enterprises and residential customers. This application does not seek authority at this time to provide any form of operator services nor any service to pay phones.

11. To provide non-facility based resale services, New Century arranges under the provisions of the duly published tariffs of its underlying carrier or carriers the commitments to meet the telecommunications traffic usage volumes necessary to qualify for

01453
the highest levels of discounts available under those tariffs. New Century is responsible for all payments to the underlying carrier for such usage. New Century then rebills its customers, at the same time passing on to them a share of the higher discounts made possible by having pooled their traffic with other of New Century's customers.

12. Customer complaints are handled entirely in-house by New Century's customer service staff. Customers may reach New Century toll free by calling (800)711-1322. In the event of a billing dispute between the customer and the Company, the customer shall notify the Company of its disagreement within thirty days of receiving its bill. The customer may request, and the Company will provide, a detailed review of the disputed amount. In this event, the undisputed amount and any subsequent billing must be paid on a timely basis. If, after investigation by a manager of the Company, there is still a disagreement about the disputed amount, the customer is notified by Company that an appeal to the state public utilities commission may be made.

13. Applicant intends to market its services to both residential and business customers. Applicant does not intend to use a multi-level marketing approach. Applicant plans to market using outside independent agents and some telemarketing. Applicant offers affinity programs to non-profit organizations, returning a percentage of the membership usage to the nonprofit organization.

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C. Technical Qualifications

14. Because the Company provides no equipment, transmission or reception facilities, technical qualifications are not directly germane to the Company's operations. New Century maintains close and continuous liaison with its underlying carrier in order to coordinate and expedite new service orders, changes, repairs, etc. of the facilities or the equipment of the underlying carrier.

15. The Federal Communications Commission (FCC) does not license switchless resellers. Accordingly, New Century does not need FCC authority for its interstate operation. New Century has obtained 214 authority from the FCC to provide international resale service.

D. Financial Background and Qualifications

16. Financial information on the Company is submitted in the following exhibits, all of which contain commercial and financial information normally considered proprietary and confidential. Accordingly, New Century requests that the information submitted be protected from public disclosure to the extent possible under the laws of the state. The exhibits contain the following information:

Exhibit 5 -- Balance Sheet

Exhibit 6 -- Profit and Loss Statement

E. Proposed Tariff

17. The proposed tariff of New Century is attached as Exhibit

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F. Public Interest Showing

18. New Century submits that the public interest will be served by the approval of this application. For example, New Century's proposed service will use existing communication facilities more efficiently, will provide alternative services of the highest quality, provide increased consumer choice in billing options, as well as increased diversification and increased reliability of supply communications services.

19. The Company's resale service offering will enhance competition for telecommunications services in this state because the addition of another supplier of telephone service will increase competition in terms of price and quality of service for the business of telephone service consumers. Also, New Century will make available to small and medium sized businesses as well as residential consumers the high volume discounts usually available only to those larger businesses able to meet the volume commitments necessary to obtain such discounts.

G. Nationwide Service

20. New Century anticipates that the majority of its customers' traffic will be interstate and international in nature. Federal law provides for the resale of interstate telecommunications services, and a strong customer demand exists for such a service. However, intrastate services are obviously necessary to its customers. Accordingly, to accommodate the intrastate telecommunications needs of its customers along with the

interstate service to which they are entitled under federal law, New Century has undertaken to request authority to provide intrastate service in all states that regulate such activities.

21. The Company requests that all questions and correspondence be directed to its regulatory counsel at the following address and phone numbers:

Kristopher E. Twomey, Esq.
Helein & Associates, P.C.
8180 Greensboro Drive, Suite 700
McLean, VA 22102
Telephone No.: (703) 714-1300
Facsimile No.: (703) 714-1330

WHEREFORE, New Century Telecom, Inc. prays that the Commission authorize it to engage in the resale of intrastate, interexchange telecommunication services to the public as proposed herein and as set forth in the attached tariffs. The Company is seeking similar action from all states where such authorization is required.

Respectfully submitted this ____ day of _____, 1994.

Kristopher E. Twomey
Helein & Associates, P.C.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

EXHIBIT 1

NEW CENTURY TELECOM, INC.
CERTIFICATE OF INCORPORATION

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NEXT

DOCUMENT (S)

BEST IMAGE

POSSIBLE

21-4-014-3

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

July 26, 1996

The State Corporation Commission has found the accompanying articles submitted on behalf of

NEW CENTURY TELECOM, INC.

to comply with the requirements of law, and confirms payment of all related fees.

Therefore, it is ORDERED that this

CERTIFICATE OF INCORPORATION

be issued and admitted to record with the articles of incorporation in the Office of the Clerk of the Commission, effective July 26, 1996.

The corporation is granted the authority conferred on it by law in accordance with the articles, subject to the conditions and restrictions imposed by law.

STATE CORPORATION COMMISSION

By *J.V. Morrison*

Commissioner

CORPACT
CIS20423
96-07-25-0076

Commonwealth of Virginia



State Corporation Commission

I Certify the Following from the Records of the Commission:

the foregoing is a true copy of all documents constituting the charter of NEW CENTURY TELECOM, INC..

Nothing more is hereby certified.



Signed and Sealed at Richmond
on this Date: October 31, 1997

William J. Bridge

William J. Bridge, Clerk of the Commission

EXHIBIT 2

NEW CENTURY TELECOM, INC.

OFFICERS AND DIRECTORS

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Applicant's Corporate Officers are as follows:

Charles H. Helein, Chairman, President/CEO
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

Robert F. Schneberger, Executive Vice-President/Treasurer/COO
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

Robert M. McDowell, Secretary
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

Deborah Schneider, Vice-President for Administration/Controller
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

Applicant's Corporate Directors are as follows:

Charles H. Helein
Robert M. McDowell
Deborah Schneider

EXHIBIT 3

NEW CENTURY TELECOM, INC.

AUTHORIZATION TO DO BUSINESS AS A FOREIGN CORPORATION

New Century has applied to this state for a certificate of authority to do business as a foreign corporation and will forward to the Commission a copy of its certification as soon as it receives certification.

EXHIBIT 4

NEW CENTURY TELECOM, INC.

REGISTERED AGENT FOR SERVICE

Corporation Service Company
503 South Pierre Street
Pierre, SD 57501

01454108

EXHIBIT 5

NEW CENTURY TELECOM, INC.

BALANCE SHEET

NEW CENTURY TELECOM, INC.

Balance Sheet
As of September 30, 1997

Assets

Current Assets	
Cash	\$ 1,293
Certificate of Deposit	380,000
Accounts Receivable	<u>2,610</u>
Total Current Assets	\$ 383,903
Total Assets	\$ 383,903

Liabilities and Stockholders' Equity

Current Liabilities	
Accounts Payable	<u>142,873</u>
Total Liabilities	\$ 142,873
Stockholders' Equity	
Common Stock, \$0.01 par value	100
Additional paid-in capital	399,800
Net Loss	<u>(158,870)</u>
Total Stockholders' Equity	<u>241,030</u>
Total Liabilities and Stockholders' Equity	\$ 383,903

EXHIBIT 6

NEW CENTURY TELECOM, INC.

PROFIT AND LOSS STATEMENT

NEW CENTURY TELECOM, INC.

1997 Profit & Loss Statement Through 9/30/97

INCOME:

Customer Receipts	\$ 17,532.00
Cost of Sales	<u>\$(18,630.13)</u>
Total Income:	<u>\$ (1,098.13)</u>

EXPENSES:

Copies/printing	\$ 7,888.60
Telephone	\$ 1,206.91
Staff Overtime	\$ 1,331.70
Overnight Courier	\$ 1,965.91
Postage	\$ 220.71
Business Development	\$ 2,101.81
Miscellaneous	\$ 176.08
Training	\$ 99.00
Advertising	\$ 3,177.99
Taxes	\$ 819.31
Travel	\$ 115.54
Software	\$ 2,615.00
Service Charges	\$ 13.00
Legal Fees	<u>\$ 47,400.52</u>

Total Expenses: \$ 69,132.08

.....
Income: \$ (1,098.13)
Expenses: \$ 69,132.08

Profit/(Loss): (\$70,230.21)

7-22-4-08-1-3

EXHIBIT 7

NEW CENTURY TELECOM, INC.

PROPOSED TARIFF

NEW CENTURY TELECOM, INC.

South Dakota Tariff
ORIGINAL PAGE NO. 1

TELECOMMUNICATIONS SERVICES TARIFF

TITLE SHEET

SOUTH DAKOTA TELECOMMUNICATIONS TARIFF

This tariff contains the description, regulations, and rates applicable to the furnishing of service and facilities for telecommunications services provided by New Century Telecom, Inc., with principal offices at 8180 Greensboro Drive, Suite 700, McLean, VA 22102. This tariff applies to services furnished within South Dakota. This tariff is on file with the South Dakota Public Utilities Commission, where copies may be inspected during normal business hours.

ISSUED:

EFFECTIVE:

By: Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

NEW CENTURY TELECOM, INC.

South Dakota Tariff
ORIGINAL PAGE NO. 2

TELECOMMUNICATIONS SERVICES TARIFF

CHECK SHEET

Pages 1 through 24 inclusive of this tariff are effective as of the date shown at the bottom of the respective page(s). Original and revised pages as named below comprise all changes from the original tariff and are currently in effect as of the date at the bottom of this page.

<u>PAGE</u>	<u>REVISION</u>
1	Original
2	Original
3	Original
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ISSUED:

EFFECTIVE:

By: Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

NEW CENTURY TELECOM, INC.

South Dakota Tariff
ORIGINAL PAGE NO. 3

TELECOMMUNICATIONS SERVICES TARIFF

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SECTION 4 - RATES	20

ISSUED:

EFFECTIVE:

By: Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SYMBOLS

The following are the only symbols used for the purpose indicated below:

- (C) - Changed regulation
- (D) - Discontinued rate or regulation
- (I) - Increase in rate
- (M) - Moved to/from another tariff location
- (N) - New rate or regulation
- (R) - Reduction in rate
- (T) - Change in text only

ISSUED:

EFFECTIVE:

By: Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

TARIFF FORMAT

- A. Page Numbering - Page numbers appear in the upper right corner of the page. Pages are numbered sequentially. However, new pages are occasionally added to the tariff. When a new page is added between pages already in effect, a decimal is added. For example, a new page added between pages 14 and 15 would be 14.1.
- B. Page Revision Numbers - Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current page version on file with the SDPUC. For example, 4th Revised Page 14 cancels the 3rd Revised Page 14. Because of various suspension periods, deferrals, etc. the SDPUC follows in its tariff approval process, the most current page number on file with the SDPUC is not always the tariff page in effect. Consult the Check Sheet for the page currently in effect.
- C. Paragraph Numbering Sequence - There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:
- 2.
 - 2.1.
 - 2.1.1.
 - 2.1.1.A.
 - 2.1.1.A. 1.
 - 2.1.1.A.1.(a).
 - 2.1.1.A.1.(a) 1.
 - 2.1.1.A.1.(a) 1. (i).
 - 2.1.1.A.1.(a) 1.(i) 1.

ISSUED:

EFFECTIVE:

By: Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

TARIFF FORMAT (Cont'd)

- D. Check Sheets - When a tariff filing is made with the SDPUC, an updated check sheet accompanies the tariff filing. The check sheet lists the pages contained in the tariff, with a cross reference to the current revision number. When new pages are added, the check sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (*). There will be no other symbols used on this page if these are the only changes made to it (i.e., the format, etc., remains the same, just revised revision levels on some pages). The tariff user should refer to the latest check sheet to find out if a particular page is the most current on file with the SDPUC.

ISSUED:

EFFECTIVE:

By: Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS

Access Line - A telephone line provided by local exchange carriers which connect a telephone or other communications device at a customer's location to New Century Telecom, Inc.'s underlying carrier's telecommunications network switching center(s).

Authorization or Account Code - A numerical code of four to eleven digits, one or more of which codes are available to a customer to enable the customer to lawfully connect its communication devices for the purpose of accessing the telecommunications networks of New Century Telecom, Inc.'s Underlying Carrier, and which thereby are used to prevent unauthorized network access and to identify the customer and its calling volumes for billing purposes.

Carrier or Company - New Century Telecom, Inc. or "New Century."

Customer - The person, firm, corporation, end user or other entity which orders or uses services and is responsible for the payment of charges.

Holidays - New Year's Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

SDPUC - South Dakota Public Utilities Commission.

Service Agreement - Company's standard form for the ordering and acceptance of a customer's request for and commitment to take Company's service offerings pursuant to this tariff.

Rate Center - The Points of Presence (POPs) or first point of interconnection of local exchange facilities providing access to the long distance network of the Company's Underlying Carrier and the point from which a customer's traffic is rated and billed.

Underlying Carrier - The telecommunications carrier whose network facilities provide the technical capability and capacity necessary for the transmission and reception of customer telecommunications traffic within South Dakota.

ISSUED:

EFFECTIVE:

By: Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 2 - RULES AND REGULATIONS

2.1 Undertaking of Company

Company undertakes to provide only those designated Services as are furnished under the terms and subject to the conditions and customer payment of the applicable rates of this tariff for communications originating and terminating within South Dakota.

The Company's Services are available to its customers twenty four hours per day, seven days per week.

2.2 Limitations

2.2.1 Service is offered subject to the availability of the facilities of Company's Underlying Carrier and the provisions of this tariff.

2.2.2 Company reserves the right to discontinue furnishing service, or to limit the use of service necessitated by conditions beyond its control, including without limitation, for customer non-payment of charges, or when the customer's use of a service becomes or is in violation of the law or the provisions of this tariff.

2.2.3 The Services provided under this tariff are subject to the direct and exclusive control of the Company. No one may alter or affect the Services nor transfer or assign its use of the Services without the express written consent of the Company, which consent may be withheld, without limitation, by Company in its sole discretion at any time such alteration, effect, transfer or assignment would result in an interruption of the Services or a change in the customer's location to which the Services are to be provided.

2.2.4 In the event prior written permission from the Company is given for any assignment or transfer, all regulations and conditions contained in this tariff shall apply to all such permitted assignees or transferees, as well as all conditions for service.

ISSUED:

EFFECTIVE:

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 2 - RULES AND REGULATIONS (Cont'd)

2.3 Liabilities of the Company

- 2.3.1 Company has no liability for damages arising out of mistakes, interruptions, omissions, delays, errors, or defects in the transmission or call processing of customer's communications traffic by the Underlying Carrier. The Company's liability for such damages occurring in the course of furnishing the Company's Services but not caused by its gross negligence or willful misconduct or that of its employees or agents in no event shall exceed an amount equivalent to the proportionate charge to the customer for the period during which such mistakes, interruptions, omissions, delays, errors, or defects in the Company's furnishing of its Services occur.
- 2.3.2 Acceptance of the provisions of Section 2.3.1 by the Commission does not constitute its determination that the limitation of liability imposed by the Company should be upheld in a court of law, but the recognition that as it is the duty of the courts to adjudicate negligence claims and rights to recover damages therefor, so it is the duty of the courts to determine the validity of the exculpatory provisions of Section 2.3.1.
- 2.3.3 Company shall be indemnified and held harmless by the customer against:
- (A) Claims for libel, slander, or infringement of copyright arising out of the material, data, information, or other content of a customer's communications traffic;
 - (B) Claims for patent infringement arising from a customer's use of its equipment, facilities, or systems with the Company's Services; and
 - (C) All other claims arising out of any act or omission of the customer in connection with any service provided by Company.

ISSUED:

EFFECTIVE:

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 2 - RULES AND REGULATIONS (Cont'd)

2.4 Interruption of Service

- 2.4.1 Credit allowance for the interruption of service is subject to the general liability provisions set forth in Section 2.3.1 herein. Customer shall receive no credit allowance for interruption of service due to Carrier's testing or adjusting, to negligence of the customer, or to the failure of channels or equipment provided by the customer. It shall be the obligation of the customer to notify the Company immediately of any interruption in service for which a credit allowance is claimed. Before giving such notice, the customer shall ascertain that the trouble is not being caused by any action or omission within customer's control, or is not in wiring or equipment, if any, furnished by the customer in connection with the Company's Services.
- 2.4.2 No credit is allowed in the event service must be interrupted in order to provide routine service quality or related investigations.
- 2.4.3 Credit for failure of service shall be allowed only when such failure is caused by or occurs due to causes within the control of Company or in the event Company is entitled to a credit for the failure of the facilities of Company's Underlying Carrier used to furnish customer's service.
- 2.4.4 No credit shall be allowed:
- (A) For failure of services or facilities of customer, or
 - (B) For failure of services or equipment caused by the negligence or wilful acts of customer.
- 2.4.5 Credit for an interruption shall commence after customer notifies Company of the interruption or when Company becomes aware thereof, and ceases when service has been restored.

ISSUED:

EFFECTIVE:

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 2 - RULES AND REGULATIONS (Cont'd)**2.4 Interruption of Service (Cont'd)**

- 2.4.6 Before customer notifies Company of an interruption, customer shall make reasonable attempts to ascertain that customer, a third party, or its or their actions and/or equipment is/are not the cause thereof.
- 2.4.7 Credits are applicable only to that portion of service interrupted.
- 2.4.8 For purposes of credit computation, every month shall be considered to have 720 hours.
- 2.4.9 No credit shall be allowed for an interruption of a continuous duration of less than two hours.
- 2.4.10 The customer shall be credited for an interruption of two hours or more at the rate of 1/720th of the monthly charge for the service affected for each hour or major fraction thereof that the interruption continues. Calculations of the credit shall be made in accordance with the following formula.

Credit Formula:

$$\text{Credit} = \frac{A}{720} \times B$$

"A" = outage time in hours

"B" = total monthly charge for affected facility

2.5 Restoration of Service

The use and restoration of service shall be administered by the Underlying Carrier in accordance with the priority system specified in the Rules and Regulations of the South Dakota Public Utilities Commission.

ISSUED:**EFFECTIVE:**

**By: Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102**

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 2 - RULES AND REGULATIONS (Cont'd)

2.6 Deposits

The Company does not require a deposit from its customers.

2.7 Advance Payments

The Company does not collect advance payments.

2.8 Taxes

2.8.1 Customer will be billed and is responsible for payment of applicable local, state, and federal taxes assessed in conjunction with service used.

2.8.2 All state and local taxes (i.e., sales taxes, gross receipts taxes, municipal utilities taxes, etc.) are listed as separate line items and are not included in the scheduled rates.

2.9 Collections

2.9.1 In the event Company incurs fees or expenses, including attorneys' fees, to collect, or to attempt to collect, any charges owed Company by customer, including charges alleged to have resulted from fraud or abuse of customer's services, the Company shall charge customer all such fees and expenses, including Company's reasonable attorneys' fees, incurred to collect or to attempt to collect its charges.

2.9.2 In accordance with the "filed tariff doctrine," as established by judicial and regulatory decisions and precedents, customer shall pay all charges due and owing irrespective of any claims of loss, liability, set off, damages, or other claims against Company to which customer may claim to be entitled. The duty to pay such charges shall arise upon the demand for payment by Company. Customer's duty to pay can only be delayed or deferred by the initiation of a valid billing dispute by the customer.

ISSUED:

EFFECTIVE:

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 2 - RULES AND REGULATIONS (Cont'd)

2.10 Billing Disputes

- 2.10.1 Billing disputes shall be processed by the Company or its billing agent(s) consistent with SDPUC regulations.
- 2.10.2 A valid billing dispute consists of written documentation specifically listing the total dollar amount of the dispute, the specific rate elements being disputed, and their dollar amounts. At least one of the following reasons must be given for the dispute to be considered valid:
1. Incorrect Rate
 2. Error in quantity (i.e., billing increments)
 3. Service no longer exists
 4. Incorrect customer being billed
 5. Backbilling
- 2.10.3 Refusal to pay an entire bill or any portion thereof without written supporting documentation will not be considered a valid dispute and will be handled as a non-payment.
- 2.10.4 In the event that a billing dispute is resolved in favor of the Company, late payment charges will apply to amounts withheld pending settlement of the dispute. Late payment charges are calculated as set forth in Section 4.8 except that when the customer disputes the bill on or before the payment date and pays the undisputed amount on or before the payment date, the penalty interest period shall not begin until 10 days following the payment date.

ISSUED:

EFFECTIVE:

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 2 - RULES AND REGULATIONS (Cont'd)

2.10 Billing Disputes (Cont'd)

2.10.5 Customer agrees that all actions, suits, or proceedings to recover charges due under this tariff shall be prosecuted in the court of competent jurisdiction of the Company's principal place of business. Customer consents to and submits to the exercise of jurisdiction over the subject matter, waives personal service of any and all process upon it, and consents that all such service of process be made by registered mail directed to customer at its address registered with Company. Service so made shall be deemed to be completed five business days after such process shall have been deposited in the mail, postage prepaid. Customer waives trial by jury, any objection based on forum non conveniens, any objection to venue or jurisdiction of any action instituted hereunder, and consents to the granting of such legal or equitable relief as deemed appropriate by the Court.

2.10.6 Customers unsatisfied with the Company's handling of a dispute may contact the South Dakota Public Utilities Commission, State Capitol, Pierre, South Dakota 57501-5070, or by phone at (800) 332-1782.

2.11 Billing

Company bills its customers directly.

ISSUED:

EFFECTIVE:

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 2 - RULES AND REGULATIONS (Cont'd)

2.12 Form and Content of Termination Notice

In the event that the Company proposes to terminate service to a customer pursuant to this tariff, the Company will send the customer a written notice of termination. The notice will be titled "SHUT OFF NOTICE" or "CUT OFF NOTICE" in type at least one-quarter (1/4) inch in height and will clearly indicate that it is a disconnect notice. The disconnect notice will contain the following information:

- (a) The name and address of the customer, the telephone number or identifying number to which the service is billed, and the nature of the service provided by the Company.
- (b) A clear and concise statement of the reasons for the proposed termination of service.
- (c) The date after which service will be terminated unless the customer takes appropriate action.
- (d) If the reason for termination of service is nonpayment of a delinquent account, the notice shall include a statement of the amount owed and the date of delinquency prompting termination.
- (e) The Company's telephone number which can be called toll-free and the address of the Company's office where a customer may make inquiries, pay the bill, make a complaint, or initiate an investigation.
- (f) A statement that any customer with an unresolved complaint may contact the SDPUC's Consumer Complaints Hotline at (800) 332-1782.
- (g) The charge and the customer action necessary for reconnection of service.

ISSUED:

EFFECTIVE:

By: Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 3 - DESCRIPTION OF SERVICES

3.1 Usage Based Services

- 3.1.1 Long distance usage charges are based on the actual usage of the Company's network. Timing for all calls begin when the called party answers the call (i.e. when two-way communications are established). Answer detection is based on standard industry answer detection methods, including hardware and software answer detection.
- 3.1.2 Chargeable time for all calls ends when one of the parties disconnects from the call.
- 3.1.3 Unless otherwise specified in this tariff, the minimum call duration for billing purposes is eighteen (18) seconds.
- 3.1.4 Unless otherwise specified in this tariff, calls are billed in six (6) second increments.
- 3.1.5 Usage is measured and rounded up to the next higher increment for billing purposes.
- 3.1.6 There are no billing charges applied for incomplete calls.

3.2 Outbound Interexchange Service

The Company's service is provided for use by presubscribed Customers or Authorized Users. Calls are routed over the Company's resold transmission and switching facilities to any valid NPA-NXX in the state of South Dakota.

3.3 800/888 Service

800/888 service provides for the termination of inbound toll-free calls to one-party exchange access lines from points within South Dakota to Customer premises within South Dakota.

ISSUED:

EFFECTIVE:

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 3 - DESCRIPTION OF SERVICES (Cont'd)**3.4 Calling Card Service**

Carrier offers a calling card, which allows Customer to gain access to its long distance service from anywhere in South Dakota via a toll-free access number with service billed back to the Customer's account. Calling Card service allows customers to originate outbound, direct dial long distance calls. The following on-demand features are offered in conjunction with Company's calling card, and can not be accessed through any other Company product or service: Audio Text; Message Store and Forward; Station-to-Station Operator Assistance; and Conference Calling.

3.4.1 Audio Text

Audio Text allows customer to access prerecorded information on topics which include news, weather, sports, financial news, and entertainment. Customer accesses Audio Text by dialing Company's toll-free calling card access number and then selecting "Information Services." Customer may then select a specific topic by making one or more menu option selections. This service is billed based upon call duration, in full minute increments, with usage measured and rounded to the next higher full minute increment.

3.4.2 Message Store and Forward

Company's Message Store and Forward service allows customer to store a recorded message and then have the recorded message automatically forwarded to any telephone number within South Dakota designated by the customer. Service is offered on a flat fee per message basis.

ISSUED:**EFFECTIVE:**

By: Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 3 - DESCRIPTION OF SERVICES (Cont'd)

3.4 Calling Card Service (Cont'd)

3.4.3 Station-to-Station Operator Assistance

Customer may request station-to-station dialing assistance on calling card calls. Company offers station-to-station dialing assistance on calling card calls only at the customer's request and then only through the resale of the services of operators employed by its underlying carrier. Station-to-station dialing assistance is offered on a flat fee per call basis.

3.4.4 Conference Calling

Conference calling is offered. Usage charges apply per each conference participant, and are based on time of day and duration of call. Conference calling usage charges are billed in full minute increments. A per-participant set-up charge also applies.

3.5 Directory Assistance

The Company provides standard Directory Assistance.

3.6 Services Not Available

Carrier does not offer 900, 911, collect, or third-party billed calling.

ISSUED:

EFFECTIVE:

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 4 - RATES**4.1 Description of Rates**

Services are available to subscribers under the following rate plans. Calls in each rate plan are billed in increments with minimum billing increments as specified. No charge is made for an uncompleted call.

4.2 Outbound 1+ Switched Service

The following rates apply to interLATA and intraLATA outbound 1+ switched calls originating and terminating in South Dakota.

Initial 18 Seconds or Fraction	Incremental 6 Seconds or Fraction
\$0.0423	\$0.0141

4.3 Outbound 1+ Dedicated Service

The following rates apply to interLATA and intraLATA outbound 1+ dedicated calls originating and terminating in South Dakota.

Initial 18 Seconds or Fraction	Incremental 6 Seconds or Fraction
\$0.0323	\$0.0108

ISSUED:**EFFECTIVE:**

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 4 - RATES (Cont'd)**4.4 800/888 Switched Service**

The following rates apply to interLATA and intraLATA inbound 800/888 switched calls originating and terminating in South Dakota.

<u>Initial 18 Seconds or Fraction</u>	<u>Incremental 6 Seconds or Fraction</u>
\$0.0423	\$0.0141

A surcharge applies to 800/888 calls originated from payphones.

Per Call

\$0.30

4.5 800/888 Dedicated Service

The following rates apply to interLATA and intraLATA inbound 800/888 dedicated calls originating and terminating in South Dakota.

<u>Initial 18 Seconds or Fraction</u>	<u>Incremental 6 Seconds or Fraction</u>
\$0.0323	\$0.0108

A surcharge applies to 800/888 calls originated from payphones.

Per Call

\$0.30

ISSUED:**EFFECTIVE:**

By: **Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102**

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 4 - RATES (Cont'd)4.6 Calling Card Service4.6.1 Calling Card Call

The following basic usage charges apply to calls originated using Carrier's calling card. Usage is billed in full minute increments, with usage measured and rounded up to the next higher increment.

Per Minute
or Fraction

\$0.25

A surcharge applies to calling card calls originated from payphones.

Per Call

\$0.30

4.6.2 Audio Text

The following usage charges apply to calls originated using Carrier's calling card to access Carrier's Audio Text service. Calls are billed in full minute increments, with usage measured and rounded up to the next higher increment.

Per Minute
or Fraction

\$0.28

ISSUED:**EFFECTIVE:**

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 4 - RATES (Cont'd)

4.6 Calling Card Service (Cont'd)4.6.3 Message Store and Forward

The following usage charges apply to calls originated using Carrier's calling card to access Carrier's Message Store and Forward service.

Per Message

\$0.98

4.6.4 Operator Assistance

The following per call charge applies for operator assistance for station-to-station calls originated using carrier's calling card.

Per Call

\$0.70

4.6.5 Conference Calling

Usage charges apply per each participant. Usage is billed in full minute increments, with usage measured and rounded up to the next higher increment. A set-up charge per participant applies.

Per Minute
or Fraction

\$0.28

Set-Up Charge: \$1.40/participant

ISSUED:

EFFECTIVE:

By: Tariff Administrator
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 4 - RATES (Cont'd)

4.7 Directory Assistance Charge

\$0.85/call

4.8 Late Payment Charge

A late fee of 1.5% per month will be charged on any past due balance.

4.9 Returned Check Charge

Carrier charges a fee of \$15.00 for any check returned for insufficient funds.

4.10 Method of Computing Charges

Charges for each call are totaled by rate period. If the computed charges include a fraction of a cent, the fraction is rounded up to the next whole cent (e.g., \$1.4266 would be rounded up to \$1.43).

ISSUED:

EFFECTIVE:

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102



South Dakota Public Utilities Commission



State Capitol Building, 500 East Capitol Avenue, Pierre, South Dakota 57501-5070

VIA FAX 703-714-1330

December 9, 1997

Mr. Kristopher E. Twomey
Attorney at Law
Helein & Associates, P.C.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

RE: APPLICATION FOR CERTIFICATE OF AUTHORITY
New Century Telecom, Inc.

Dear Mr. Twomey:

We received your Application for a Certificate of Authority to operate as a telecommunications company in the state of South Dakota. Pursuant to SDCL 49-31-3, telecommunication companies shall submit a \$250 application fee when filing:

SDCL 49-31-3: Each telecommunications company shall file an application for a certificate of authority with the commission no less than sixty days prior to initiating any telecommunications service in this state. Each telecommunications company shall submit a two hundred fifty dollar application fee with its application which shall be deposited into the gross receipts tax fund established pursuant to § 49-1A-2.

We cannot take any action on your application until we receive the applicable fee.

Thank you for your cooperation in this matter.

Sincerely,

Delaine Kolbo
Legal Secretary

Capitol Office
Telephone (605)773-3201
FAX (605)773-3809

Transportation
Warehouse Division
Telephone (605)773-5280
FAX (605)773-3225

Consumer Hotline
1-800-332-1782

TTY Through
Relay South Dakota
1-800-877-1113

Internet
mlb@puc.state.sd.us

♦
Jim Burg
Chairman
Pam Nelson
Vice-Chairman
Lanka Schoenfelder
Commissioner

William Hallard Jr.
Executive Director

Edward R. Anderson
Harlan Best
Martin C. Bettmann
Charles Heile
Sue Gibson
Karen F. Cramer
Marlette Fischbach
Sharon Fugitt
Lewis Hammond
Katie Hartford
Lena Healy
Cameron Hovock
Dave Jacobson
Bob Knudde
Delaine Kolbo
Jeffrey P. Lorenson
Terry Norman
Gregory A. Radov
Tamara Stangor
Steven M. Wegman
Rakayne Albo Wiest

74.4.5.4.10

HELEIN & ASSOCIATES, P. C.

ATTORNEYS AT LAW

8180 GREENSBORO DRIVE
SUITE 700
MCLEAN, VA 22102

(703) 714-1300 (TELEPHONE)
(703) 714-1330 (FACSIMILE)
mail@helein.com (EMAIL)

WRITER'S DIRECT DIAL NUMBER:

(703) 714-1304

WRITER'S DIRECT EMAIL ADDRESS:

ktwomey@helein.com

December 12, 1997

Via Overnight Delivery

Delaine Kolbo
Legal Secretary
South Dakota Public Utilities Commission
State Capitol
500 E. Capitol Avenue
Pierre, SD 57501

RECEIVED

DEC 15 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

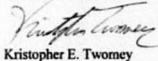
Re: Application of New Century Telecom, Inc. to Provide Intrastate Resale Telecommunications Services in South Dakota

Dear Ms. Kolbo:

On behalf of New Century Telecom, Inc., please find enclosed a check for \$250 to cover the application fee.

Please date-stamp the extra copy of this letter and return it to the undersigned in the enclosed postage-prepaid envelope. Should you have any questions with respect to this matter, please contact me.

Respectfully submitted,



Kristopher E. Twomey

Enclosures

004.4.04.00

NEXT

DOCUMENT (S)

DISREGARD

BACKGROUND

HELEIN & ASSOCIATES, P.C.

2920

VENDOR ID: MISC
PAYEE: SD PUC

CHECK NO.: 2920 DATE: 12/10/97
MEMO: Filing fee

ACCOUNT: AMOUNT:
5200 250.00

ACCOUNT: AMOUNT:

TC97-193

CHECK TOTAL: *****\$250.00

HELEIN & ASSOCIATES, P.C.

6180 GREENBORO DRIVE SLATE 700
MCLEAN, VIRGINIA 22102

TYSONS NATIONAL BANK
MCLEAN, VA 22102

2920

68-541/560 1

CHECK NO. 2920

PAY TWO HUNDRED FIFTY DOLLARS

DATE AMOUNT
12/10/97 *****\$250.00

TO THE ORDER OF SD PUC

Robert Schneider
AUTHORIZED SIGNATURE

⑈002920⑈ ⑆056005415⑆ ⑆0007447⑆

TC97-044	Wireless Interconnection Agreement between U S WEST Communications, Inc. and CommNet Cellular, Inc. The amendment consists of lowering the current nonrecurring charge for trunk routing changes from that of charging on a per trunk basis to charging on a per trunk group basis. This nonrecurring charge applies only when changing from Direct Final to Alternate Final to Direct Final. Any party wishing to comment on the parties' amendment may do so by filing written comments with the Commission and the parties to the agreement no later than December 29, 1997. Parties to the amendment may file written responses to the comments no later than January 8, 1998. (Staff: CH)	12/12/97	Responses Due 12/29/97
NONCOMPETITIVE TELECOMMUNICATIONS FILING			
TC96-107	U S WEST Communications filed tariff sheets implementing the Commission's November 24, 1997, decision establishing switched access rates effective December 1, 1997. This filing does not waive the right of U S WEST to appeal the Commission's decision, nor does it waive any issues concerning this matter which may be waived in any other regulatory or judicial proceeding. (Staff: HB/KC)	12/17/97	NA
TC97-194	U S WEST Communications filed to eliminate "the South Dakota Telephone Assistance and Link-Up programs, effective January 1, 1998, consistent with the Commission Order in Docket TC97-150. This filing also includes the FCC Lifeline program which will begin January 1, 1998. Changes have been made to the eligibility criteria for both the Telephone Assistance Plan and Link-Up Plans, as well as a change in the credit the customer receives. Also attached is the following page from our Exchange and Network Services Catalog which adds language regarding Toll Restriction for Lifeline customers." (Staff: HB/KC)	12/17/97	12/26/97
REQUEST FOR ELIGIBLE TELECOMMUNICATIONS COMPANY STATUS			
TC97-195	Heartland Telecommunications Company of Iowa d/b/a Hickory Tech Corporation pursuant to 47 U.S.C. 214(a) and 47 C.F.R. 54.201 hereby seeks designation as an eligible telecommunications carrier within the local exchange areas that constitute its service area in South Dakota. Hickory Tech Corporation is the facilities based local exchange carrier presently providing local exchange telecommunications services in the following exchanges: West Hawarden (605) 547 and West Arkon (605) 565 Hickory Tech Corporation, to its knowledge, is the only carrier today providing local exchange telecommunications services in the above identified exchange areas. (Staff: HB/CH)	12/17/97	12/26/97

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 Noonan at: terry@public.state.sd.us. Failing the address to the Commission at: 605-773-3809

PAGE 2 OF 2

South Dakota Public Utilities Commission State Capitol 500 E. Capitol Pierre, SD 57501-5070 Phone: (605) 773-3705 Fax: (605) 773-3809	<h2 style="margin: 0;">TELECOMMUNICATIONS SERVICE FILINGS</h2> <p style="font-size: small; margin: 0;">These are the telecommunications service filings that the Commission has received for the period of:</p> <h1 style="margin: 0;">12/11/97 through 12/18/97</h1> <p style="font-size: x-small; margin: 0;">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			
TC97-191	Application by ConnectAmerica, Inc. d/b/a Connect US for a Certificate of Authority to operate as a telecommunications company within the state of South Dakota. (Staff: TS/KC) Applicant proposes to provide Message Toll Service, Incoming 800 and Travel Card services.	12/12/97	01/02/98
TC97-193	Application by New Century Telecom, Inc. for a Certificate of Authority to operate as a telecommunications company within the state of South Dakota. (Staff: TS/CH) Applicant proposes to provide Outbound Interexchange Service, 800/888 Service, Calling Card Service and Directory Assistance. Applicant will not offer 900, 911, collect, or third-party billed calling services.	12/15/97	01/02/98
PETITION FOR ORDER TO SHOW CAUSE FILED			
TC97-192	In The Matter Of U S WEST Communications, Inc. And Its Ability To Serve South Dakota Customers. In its Petition for Order to Show Cause Commission staff stated that by failing to provide adequate service, USWC could endanger the health, safety, and welfare of South Dakota citizens if those citizens cannot reach, for example, emergency numbers, doctors, hospitals, police and fire protection. Further, the inability of citizens and businesses to have telecommunications services timely installed and be otherwise reliable affects economic development and commerce and the welfare of the entire state of South Dakota. The convenience of the public can be and is negatively affected. The foregoing factors raise questions as to the competency, sufficiency and quality of management of USWC in South Dakota and the taxpayers in South Dakota, to prevent out-of-service conditions and to otherwise manage USWC in a manner which delivers reliable service in a timely manner to its customers and those wanting to become its customers. (Staff: HB/CH)	12/12/97	NA
AMENDMENT TO NEGOTIATED INTERCONNECTION AGREEMENT FILED			
TC96-160	Wireless Interconnection Agreement between U S WEST Communications, Inc. and Western Wireless Corporation. The amendment consists of lowering the current nonrecurring charge for trunk routing changes from that of charging on a per trunk basis to charging on a per trunk group basis. This nonrecurring charge applies only when changing from Direct Final to Alternate Final to Direct Final. Any party wishing to comment on the parties' amendment may do so by filing written comments with the Commission and the parties to the agreement no later than December 29, 1997. Parties to the amendment may file written responses to the comments no later than January 8, 1998. (Staff: CH)	12/12/97	Responses Due 12/29/97
TC97-032	First Amendment to Agreement For Service Resale between U S WEST Communications, Inc. and FisTel, Inc. This amendment adds or replaces language in the original agreement. Any party wishing to comment on the parties' amendment may do so by filing written comments with the Commission and the parties to the agreement no later than December 29, 1997. Parties to the amendment may file written responses to the comments no later than January 8, 1998. (Staff: CH)	12/12/97	Responses Due 12/29/97

PAGE 1 OF 2

TC 97-193

HELEIN & ASSOCIATES, P. C.

ATTORNEYS AT LAW

8180 GREENSBORO DRIVE
SUITE 700
MCLEAN, VA 22102

(703) 714-1300 (TELEPHONE)

(703) 714-1330 (FACSIMILE)

mail@helein.com (EMAIL)

RECEIVED

FEB 05 1998

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

WRITER'S DIRECT DIAL NUMBER:

(703) 714-1304

WRITER'S DIRECT EMAIL ADDRESS:

ktwomey@helein.com

February 4, 1998

Via Overnight Delivery

Tammi Stanghor
Utility Analyst
South Dakota Public Utilities Commission
State Capitol
500 E. Capitol Avenue
Pierre, SD 57501

Re: Application of New Century Telecom, Inc. to Provide Intrastate Resale Telecommunications Services in South Dakota

Dear Ms. Stanghor:

On behalf of New Century Telecom, Inc., we hereby submit an original and eight (8) copies of your requested revisions to the application of New Century Telecom, Inc. for a Certificate of Public Convenience and Necessity to provide intrastate telecommunications resale services. Please note two things in response to your concerns with the application. First, the Commission's 800 number is included in the tariff, please see enclosed tariff page 14. Second, New Century will not offer prepaid calling cards or collect deposits or advance payments. Therefore, in regards to New Century's financial fitness, the SD PUC should find the current financial statements to provide sufficient liquidity to offer the types of services proposed in the tariff.

Please date-stamp the extra copy and return it to the undersigned in the enclosed postage-prepaid envelope. Should you have any questions with respect to this matter, please contact me.

Respectfully submitted,



Kristopher E. Twomey

Enclosures

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 2 - RULES AND REGULATIONS (Cont'd)

2.10 Billing Disputes (Cont'd)

2.10.5 Customer agrees that all actions, suits, or proceedings to recover charges due under this tariff shall be prosecuted in the court of competent jurisdiction of the Company's principal place of business. Customer consents to and submits to the exercise of jurisdiction over the subject matter, waives personal service of any and all process upon it, and consents that all such service of process be made by registered mail directed to customer at its address registered with Company. Service so made shall be deemed to be completed five business days after such process shall have been deposited in the mail, postage prepaid. Customer waives trial by jury, any objection based on forum non conveniens, any objection to venue or jurisdiction of any action instituted hereunder, and consents to the granting of such legal or equitable relief as deemed appropriate by the Court.

2.10.6 Customers unsatisfied with the Company's handling of a dispute may contact the South Dakota Public Utilities Commission, State Capitol, Pierre, South Dakota 57501-5070, or by phone at (800) 332-1782.

2.11 Billing

Company bills its customers directly.

ISSUED:

EFFECTIVE:

By: **Tariff Administrator**
New Century Telecom, Inc.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

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1
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BEFORE THE
PUBLIC UTILITIES COMMISSION
OF THE STATE OF
SOUTH DAKOTA

APPLICATION FOR AUTHORIZATION TO PROVIDE
INTRASTATE TELECOMMUNICATIONS RESALE SERVICES
OF
NEW CENTURY TELECOM, INC.
8180 GREENSBORO DRIVE, SUITE 700
McLEAN, VA 22102

Kristopher E. Twomey
Helein & Associates, P.C.
8180 Greensboro Drive, Suite 700
McLean, VA 22102
Telephone No.: (703) 714-1300
Facsimile No.: (703) 714-1330

Docket No. _____

In the Matter of)
NEW CENTURY TELECOM, INC.)
Application for Authorization to)
Provide Intrastate)
Telecommunications Resale Services)

To the Commission:

APPLICATION OF NEW CENTURY TELECOM, INC.

New Century Telecom, Inc. ("New Century") of McLean, Virginia herewith respectfully petitions for authorization to provide its telecommunications resale services on an intrastate basis. In support of this application, the following is shown:

A. Corporate Information

1. New Century is a corporation formed in the State of Virginia. A copy of Applicant's articles of incorporation is attached to this petition as Exhibit 1. The Applicant does not own or control any subsidiaries.

2. The Company's principal offices are located at 8180 Greensboro Drive, Suite 700, McLean, VA 22102. Its phone number is (800) 711-1322 or (703) 714-1322.

3. New Century's President is Charles H. Helein and its Executive Vice President is Robert Schneberger.

4. New Century's officers and directors are listed in Exhibit 2.

5. A certificate to do business as a foreign corporation has been applied for and will be forwarded to the SDPSC when it is issued as Exhibit 3.

6. The Company's registered agent to receive service is listed in Exhibit 4.

7. No persons serving either in elections or appointment as officers, directors, incorporators and persons controlling or holding more than 10% of the issued and outstanding common shares or 10% of any other proprietary, beneficial or membership interest in the corporation have been convicted of a felony involving a transaction in securities, consumer fraud or antitrust in any state or federal jurisdiction; have been convicted of a felony, the essential elements of which consisted of fraud, misrepresentation, theft by false pretenses, of restraining the trade or monopoly in any state or federal jurisdiction; have been or are subject to an injunction, judgment, decree, or permanent order of any state or federal court where such injunction, judgment, decree or permanent order involved the violation of fraud or registration provisions of the securities laws of that jurisdiction, involved the violation of the consumer fraud laws of that jurisdiction, or involved the violation of the antitrust or restraint of trade laws of that jurisdiction.

8. The Company, and its shareholders and directors have not had, and have no interest in any entity that has had any regulatory approval denied, revoked or suspended, nor are they, individually or collectively, involved in any proceeding to deny, revoke or

suspend any regulatory approval. A list of all the states where Applicant is registered or certified to do business is attached as Exhibit 8.

B. Description of Services

9. New Century is a switchless reseller which provides or which will provide interstate, interexchange long distance telephone service using the networks of various carriers. Intrastate interLATA and, where permitted, intraLATA telecommunication services will also be offered to the public on a resale basis. New Century presently provides interstate "switchless resale" in twenty-nine states. New Century is extending its service to meet the intrastate needs of its customers is filing the requisite applications in all other states to be certified as required. New Century currently has applications pending in nine other states. New Century proposes to provide service throughout the state of South Dakota.

10. At present, New Century employs no switches or network facilities of its own because those are or will be provided by New Century's underlying carrier. New Century's underlying carrier currently is IXC Long Distance, Inc. The Company provides service to commercial enterprises and residential customers. This application does not seek authority at this time to provide any form of operator services nor any service to pay phones.

11. To provide non-facility based resale services, New Century arranges under the provisions of the duly published tariffs of its underlying carrier or carriers the commitments to meet the

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JUL 8 1984

telecommunications traffic usage volumes necessary to qualify for the highest levels of discounts available under those tariffs. New Century is responsible for all payments to the underlying carrier for such usage. New Century then rebills its customers, at the same time passing on to them a share of the higher discounts made possible by having pooled their traffic with other of New Century's customers.

12. Customer complaints are handled entirely in-house by New Century's customer service staff. Customers may reach New Century toll free by calling (800)711-1322. In the event of a billing dispute between the customer and the Company, the customer shall notify the Company of its disagreement within thirty days of receiving its bill. The customer may request, and the Company will provide, a detailed review of the disputed amount. In this event, the undisputed amount and any subsequent billing must be paid on a timely basis. If, after investigation by a manager of the Company, there is still a disagreement about the disputed amount, the customer is notified by Company that an appeal to the state public utilities commission may be made.

13. Applicant intends to market its services to both residential and business customers. Applicant does not intend to use a multi-level marketing approach. Applicant plans to market using outside independent agents and some telemarketing. Applicant offers affinity programs to non-profit organizations, returning a percentage of the membership usage to the nonprofit organization.

00004.014-0

C. Technical Qualifications

14. Because the Company provides no equipment, transmission or reception facilities, technical qualifications are not directly germane to the Company's operations. New Century maintains close and continuous liaison with its underlying carrier in order to coordinate and expedite new service orders, changes, repairs, etc. of the facilities or the equipment of the underlying carrier.

15. The Federal Communications Commission (FCC) does not license switchless resellers. Accordingly, New Century does not need FCC authority for its interstate operation. New Century has obtained 214 authority from the FCC to provide international resale service.

D. Financial Background and Qualifications

16. Financial information on the Company is submitted in the following exhibits, all of which contain commercial and financial information normally considered proprietary and confidential. Accordingly, New Century requests that the information submitted be protected from public disclosure to the extent possible under the laws of the state. The exhibits contain the following information:

Exhibit 5 -- Balance Sheet

Exhibit 6 -- Profit and Loss Statement

E. Proposed Tariff

17. The proposed tariff of New Century is attached as Exhibit

7.

100-4-014-0

F. Public Interest Showing

18. New Century submits that the public interest will be served by the approval of this application. For example, New Century's proposed service will use existing communication facilities more efficiently, will provide alternative services of the highest quality, provide increased consumer choice in billing options, as well as increased diversification and increased reliability of supply communications services.

19. The Company's resale service offering will enhance competition for telecommunications services in this state because the addition of another supplier of telephone service will increase competition in terms of price and quality of service for the business of telephone service consumers. Also, New Century will make available to small and medium sized businesses as well as residential consumers the high volume discounts usually available only to those larger businesses able to meet the volume commitments necessary to obtain such discounts.

G. Nationwide Service

20. New Century anticipates that the majority of its customers' traffic will be interstate and international in nature. Federal law provides for the resale of interstate telecommunications services, and a strong customer demand exists for such a service. However, intrastate services are obviously necessary to its customers. Accordingly, to accommodate the intrastate telecommunications needs of its customers along with the

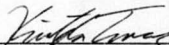
interstate service to which they are entitled under federal law, New Century has undertaken to request authority to provide intrastate service in all states that regulate such activities.

21. The Company requests that all questions and correspondence be directed to its regulatory counsel at the following address and phone numbers:

Kristopher E. Twomey, Esq.
Helein & Associates, P.C.
8180 Greensboro Drive, Suite 700
McLean, VA 22102
Telephone No.: (703) 714-1300
Facsimile No.: (703) 714-1330

WHEREFORE, New Century Telecom, Inc. prays that the Commission authorize it to engage in the resale of intrastate, interexchange telecommunication services to the public as proposed herein and as set forth in the attached tariffs. The Company is seeking similar action from all states where such authorization is required.

Respectfully submitted this 4th day of February, 1998.



Kristopher E. Twomey
Helein & Associates, P.C.
8180 Greensboro Drive, Suite 700
McLean, VA 22102

EXHIBIT 3

NEW CENTURY TELECOM, INC.

AUTHORIZATION TO DO BUSINESS AS A FOREIGN CORPORATION

9145462

State of South Dakota



OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF AUTHORITY

I, JOYCE HAZELTINE, Secretary of State of the State of South Dakota, hereby certify that the Application for a Certificate of Authority of NEW CENTURY TELECOM, INC. (VA) to transact business in this state duly signed and verified pursuant to the provisions of the South Dakota Corporation Acts, have been received in this office and are found to conform to law.

ACCORDINGLY and by virtue of the authority vested in me by law, I hereby issue this Certificate of Authority and attach hereto a duplicate of the application to transact business in this state under the name of NEW CENTURY TELECOM, INC.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this January 15, 1998.

Joyce Hazeltine

JOYCE HAZELTINE
Secretary of State

SECRETARY OF STATE
STATE CAPITOL
500 E. CAPITOL
PIERRE, S.D. 57504
605-773-4845/
FAX (605) 773-4846

FILE NO. _____
RECEIPT NO. _____

JAN 15 1998

RECEIVED

JAN 12 1998

APPLICATION FOR CERTIFICATE OF AUTHORITY
S.D. SEC. OF STATE

Under Sections 17-8-7, the undersigned corporation hereby applies for a certificate of authority to do business in the State of South Dakota and for that purpose submits the following information:

Filed for
15th day of
Jan. 1998
Secretary of State
New Century Telecom, Inc.

Secretary of State
New Century Telecom, Inc.
(Exact corporate name)

(2) If the name of the corporation does not contain the word "corporation", "company", "incorporated" or "limited" or does not contain an abbreviation of one of such words, then the name of the corporation with the word or abbreviation which it elects to add thereto for use in this state is _____

(3) State where incorporated Virginia Federal Taxpayer ID# 54-1765590

(4) The date of its incorporation is July 26, 1996 and the period of its duration, which may be perpetual, is Perpetual

(5) The address of its principal office in the state or country under the laws of which it is incorporated is 8180 Greensboro Dr. #700, McLean, VA Zip Code 22102
mailing address if different from above is: Same

(6) The street address, or a statement that there is no street address, of its proposed registered office in the State of South Dakota is 503 S. Pierre St. Pierre, SD Zip 57501
and the name of its proposed registered agent in the State of South Dakota at that address is Corporation Service Company

(7) The purposes which it proposes to pursue in the transaction of business in the State of South Dakota are: (state specific purpose) Telecommunication Services

(8) The names and respective addresses of its directors and officers are:

Name	Officer Title	Street Address	City	State	Zip
<u>Charles H. Helein</u>	<u>Pres.</u>	<u>8180 Greensboro Drive</u>			
<u>Robert F. Schenberger</u>	<u>Exec. V.P.</u>	<u>Suite 700</u>			
<u>Charles H. Helein</u>	<u>Sec. Treas.</u>	<u>McLean, VA</u>			<u>22102</u>
<u>Charles H. Helein</u>	<u>Director</u>				

(9) The aggregate number of shares which it has authority to issue, itemized by classes, par value of shares, shares without par value, and series, if any, within a class is:

Number of shares	Class	Series	Par value per share or statement that shares are without par value
<u>1000</u>	<u>Common</u>	<u>---</u>	<u>\$0.01</u>

(10) The aggregate number of its issued shares, itemized by classes, par value of shares, shares without par value, and series, if any, within a class, is:

Number of shares	Class	Series	Par value per share or statement that shares are without par value
257 1000	Common	—	\$0.01
_____	_____	_____	_____
_____	_____	_____	_____

(11) The amount of its stated capital is \$ 100.00
Shares issued times par value equals stated capital. In the case of no par value stock, stated capital is the consideration received for the issued shares.

(12) This application is accompanied by a CERTIFICATE OF FACT or a CERTIFICATE OF GOOD STANDING duly acknowledged by the secretary of state or other officer having custody of corporate records in the state or country under whose laws it is incorporated.

(13) That such corporation shall not directly or indirectly combine or make any contract with any incorporated company, foreign or domestic, through their stockholders or the trustees or assigns of such stockholders, or with any copartnership or association of persons, or in any manner whatever to fix the prices, limit the production or regulate the transportation of any product or commodity so as to prevent competition in such prices, production or transportation or to establish excessive prices therefor.

(14) That such corporation, as a consideration of its being permitted to begin or continue doing business within the State of South Dakota, will comply with all the laws of the said State with regard to foreign corporations.

The application must be signed, in the presence of a notary public, by the chairman of the board of directors, or by the president or by another officer.

I DECLARE AND AFFIRM UNDER THE PENALTY OF PERJURY THAT THIS APPLICATION IS IN ALL THINGS, TRUE AND CORRECT.

Dated 1/9 19 98

Charles H. Helein
(Signature)
President
(Title)

State of Virginia
County of Fairfax

On this 7th day of January, 19 98, before me Jane H. Helein personally appeared Charles H. Helein, known to me, or proved to me, to be the President of the corporation that is described in and that executed the within instrument and acknowledged to me that such corporation executed same.

My Commission Expires: 2/2/99

Jane H. Helein
(Notary Public)

Notarial Seal

The Consent of Appointment below must be signed by the registered agent listed in number six.

CONSENT OF APPOINTMENT BY THE REGISTERED AGENT

I, Corporation Service Company, hereby give my consent to serve as the
(name of registered agent)

registered agent for New Century Telecom, Inc.
(corporate name)

Dated 1-2 19 98

Charles H. Helein
(signature of registered agent)

Exhibit 8
States where New Century is Currently Registered
or Certified to do Business

NEW CENTURY'S STATE CERTIFICATIONS STATUS (as of February 4, 1998)

Approved	Pending	To Be Filed
Arkansas	Alabama - expected approx. 2/15/98	
California	Arizona	Maine
Colorado	Georgia	Mississippi
Connecticut	Kentucky - will be effective 2/8/98	Nebraska
District of Columbia	Louisiana	North Dakota
Florida	Minnesota - expected approx. 2/1/98	Vermont
Illinois	Nevada	
Indiana	New Mexico	
Iowa	North Carolina	
Kansas	South Carolina	
Maryland	South Dakota	
Massachusetts	Tennessee - expected any day	
Michigan	West Virginia	
Missouri	Wyoming	
Montana	Idaho	
New Hampshire		
New Jersey		
New York		
Ohio		
Oklahoma		
Oregon		
Pennsylvania		
Rhode Island		
Texas		
Utah		
Virginia		
Washington		
Wisconsin		

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION OF) ORDER GRANTING
NEW CENTURY TELECOM, INC. FOR A) CERTIFICATE OF
CERTIFICATE OF AUTHORITY TO PROVIDE) AUTHORITY
TELECOMMUNICATIONS SERVICES IN)
SOUTH DAKOTA) TC97-193

On December 15, 1997, the Public Utilities Commission (Commission), in accordance with SDCL 49-31-3 and ARSD 20 10 24 02, received an application for a certificate of authority from New Century Telecom, Inc. (New Century).

New Century is a switchless reseller which seeks to provide interstate interexchange long distance telephone service using the networks of various carriers. Intrastate interLATA and intraLATA telecommunications services will also be offered on a resale basis. A proposed tariff was filed by New Century. The Commission has classified long distance service as fully competitive.

On December 18, 1997, the Commission electronically transmitted notice of the filing and the intervention deadline of January 2, 1998, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled February 24, 1998, meeting, the Commission considered New Century's request for a certificate of authority. Commission Staff recommended granting a certificate of authority, subject to the condition that New Century not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission.

The Commission finds that it has jurisdiction over this matter pursuant to Chapter 49-31, specifically 49-31-3 and ARSD 20 10 24 02 and 20 10 24 03. The Commission finds that New Century has met the legal requirements established for the granting of a certificate of authority. New Century has, in accordance with SDCL 49-31-3, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota. The Commission approves New Century's application for a certificate of authority, subject to the condition that New Century not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission. As the Commission's final decision in this matter, it is therefore

ORDERED, that New Century's application for a certificate of authority is hereby granted, subject to the condition that New Century not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission. It is

FURTHER ORDERED, that New Century shall file informational copies of tariff changes with the Commission as the changes occur.

Dated at Pierre, South Dakota, this 27th day of February, 1998.

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 first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By	<u><i>Neilene Kalbs</i></u>
Date	<u>3/2/98</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

**SOUTH DAKOTA PUBLIC UTILITIES
COMMISSION**

CERTIFICATE OF AUTHORITY

To Conduct Business As A Telecommunications Company
Within The State Of South Dakota

Authority was Granted February 24, 1998
Docket No. TC97-193

This is to certify that

NEW CENTURY TELECOM, INC.

is authorized to provide telecommunications services in South Dakota.

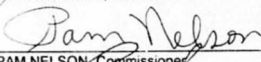
This certificate is issued in accordance with SDCL 49-31-3 and ARSD 20-10-24.02, and is subject to all of the conditions and limitations contained in the rules and statutes governing its conduct of offering telecommunications services.

Dated at Pierre, South Dakota, this 27th day of February, 1998

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION:**



JAMES A. BURG, Chairman



PAM NELSON, Commissioner



LASKA SCHOENFELDER, Commissioner



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