

TC98-136

KC/DJ

TC98-136

DOCKET NO. _____

In the Matter of _____

IN THE MATTER OF THE FILING BY
 ECONOPHONE, INC. FOR APPROVAL
 TO TRANSFER ITS CERTIFICATE OF
 AUTHORITY TO ITS WHOLLY-OWNED
 SUBSIDIARY, ECONOPHONE
 SERVICES, INC.

Public Utilities Commission of the State of South Dakota

DATE

MEMORANDA

7/23 98 Filed and docketed;
 7/23 98 Weekly Filing;
 9/10 98 Supplemental Information;
 10/21 98 Order Granting the Transfer of a COA;
 10/21 98 Docket Closed

TC 98-136

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VIA AIRBORNE EXPRESS

July 22, 1998

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

RECEIVED

JUL 23 1998

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Re: Econophone, Inc.

Dear Mr. Bullard:


Please accept this letter as Econophone, Inc.'s application to transfer its Certificate of Authority issued in Docket No. TC96-095 on August 13, 1996 to its wholly-owned subsidiary, Econophone Services, Inc. Econophone, Inc., formerly a New York corporation, has reincorporated in the State of Delaware and is transferring its interexchange authorizations to Econophone Services, Inc. I have enclosed herewith the following documents:

1. Econophone Services, Inc.'s Certificate of Authority;
2. Updated Financial Statements for Econophone, Inc.; and
3. Econophone Services, Inc.'s initial tariff.

Please note that since customer service, invoices and promotional materials identify the carrier as Econophone, this change will be transparent to and have no effect on customers.

I have also enclosed an extra copy of this cover letter to be date stamped and returned to me in the enclosed self-addressed prepaid envelope. If you have any questions or if I may provide you with any additional information, please do not hesitate to contact me. Thank you.

Respectfully submitted,


Lance J.M. Steinhart
Attorney for Econophone, Inc.
and Econophone Services Inc.

Enclosures

cc: Richard Shorten, Esq.

Enclosures
cc: Richard Shorten, Esq.

Agency for Econophone, Inc.
and Econophone Services Inc.

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State of South Dakota

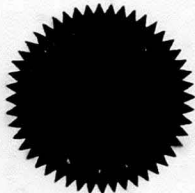


OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF AUTHORITY

I, JOYCE HAZELTINE, Secretary of State of the State of South Dakota, hereby certify that duplicate of the Application for a Certificate of Authority of ECONOPHONE SERVICES INC. (DE) 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 ECONOPHONE SERVICES 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 May 26, 1998.

Joyce Hazeltine
JOYCE HAZELTINE
Secretary of State

REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS

To the Stockholders of
Econophone, Inc.

We have audited the accompanying consolidated balance sheets of Econophone, Inc. (a Delaware corporation) and subsidiaries as of December 31, 1996 and 1997, and the related consolidated statements of operations, stockholders' equity (deficit) and cash flows for each of the three years ended December 31, 1997. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of Econophone, Inc. and subsidiaries as of December 31, 1996 and 1997, and the results of their operations and their cash flows for each of the three years ended December 31, 1997, in conformity with generally accepted accounting principles.

Arthur Andersen LLP

New York, New York
February 12, 1998

ECONOPHONE, INC. AND SUBSIDIARIES
CONSOLIDATED BALANCE SHEETS
DECEMBER 31, 1996 AND 1997

| | December 31, | |
|--|--------------|---------------|
| | 1996 | 1997 |
| ASSETS | | |
| CURRENT ASSETS | | |
| Cash and cash equivalents | \$ 6,271,641 | \$ 67,201,901 |
| Accounts receivable, net of allowance for doubtful accounts of \$761,372 and \$1,593,531, respectively | 7,946,042 | 16,796,253 |
| Prepaid expenses and other current assets | 863,735 | 1,667,041 |
| Restricted cash and securities | — | 10,462,500 |
| Total current assets | 15,081,418 | 96,127,695 |
| PROPERTY, EQUIPMENT AND LEASEHOLD IMPROVEMENTS net of accumulated depreciation and amortization of \$1,643,151 and \$3,689,250, respectively (Note 4) | | |
| | 6,242,472 | 23,216,765 |
| Debt issuance costs | — | 6,355,491 |
| Other assets (Note 6) | 1,431,446 | 3,139,117 |
| Restricted cash and securities | — | 48,964,970 |
| Total assets | \$22,755,336 | \$178,004,938 |
| LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIT) | | |
| CURRENT LIABILITIES | | |
| Accounts payable | \$ 5,190,086 | \$ 21,100,675 |
| Accrued expenses and other current liabilities | 6,188,847 | 5,355,975 |
| Interest accrued on Senior Notes | — | 10,462,500 |
| Short-term borrowings (Note 8) | 2,127,726 | — |
| Current maturities of long-term debt (Note 8) | 753,881 | 1,828,962 |
| Current maturities of obligations under capital lease (Note 14) | 130,867 | 156,067 |
| Current maturities of notes payable—related party (Note 12) | 7,884 | 316,493 |
| Deferred revenue | 859,803 | 2,567,606 |
| Total current liabilities | 15,259,094 | 41,787,278 |
| LONG-TERM DEBT (Note 8) | 1,707,941 | 5,657,042 |
| OBIGATIONS UNDER CAPITAL LEASE (Note 14) | 235,074 | 278,667 |
| NOTES PAYABLE—RELATED PARTY (Note 12) | 319,531 | — |
| SENIOR NOTES | — | 149,680,000 |
| SERIES A REDEEMABLE CONVERTIBLE PREFERRED STOCK (Note 11) | 13,357,940 | 14,327,588 |
| COMMITMENTS AND CONTINGENCIES (Note 14) | — | — |
| STOCKHOLDERS' EQUITY (DEFICIT) (Note 10): | | |
| Common stock—voting, par value \$3.00; authorized 25,250,000 shares; 20,000,000 shares issued and outstanding in 1995 and 1996 | 2,000 | 2,000 |
| Non-voting Common stock, par value \$3.00; authorized 500,000 shares; no shares issued and outstanding | — | — |
| Additional paid-in capital | 481,870 | 6,081,870 |
| Cumulative translation adjustment | — | (103,880) |
| Retained earnings (deficit) | (8,908,114) | (39,705,627) |
| Total stockholders' equity (deficit) | (8,124,244) | (33,725,637) |
| Total liabilities and stockholders' equity (deficit) | \$22,755,336 | \$178,004,938 |

The accompanying notes are an integral part of these consolidated balance sheets.

ECONOPHONE, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF OPERATIONS

| | For The Years Ended December 31, | | |
|---|----------------------------------|---------------|----------------|
| | 1995 | 1996 | 1997 |
| REVENUES | \$27,490,490 | \$45,102,882 | \$ 83,002,625 |
| COST OF SERVICES | 19,735,430 | 35,368,603 | 63,707,453 |
| Gross profit | 7,754,960 | 9,734,279 | 19,295,172 |
| SELLING, GENERAL AND ADMINISTRATIVE EXPENSES | 7,587,735 | 16,833,779 | 37,897,940 |
| DEPRECIATION AND AMORTIZATION | 388,508 | 1,949,651 | 3,615,283 |
| Income (loss) from operations | 278,717 | (8,149,151) | (22,218,051) |
| OTHER INCOME | 31,425 | 106,580 | 101,926 |
| FOREIGN CURRENCY EXCHANGE GAIN (LOSS), net | (41,897) | 26,949 | (284,521) |
| INTEREST EXPENSE, net | (147,826) | (295,677) | (7,747,219) |
| Net income (loss) | \$ 121,219 | \$(8,311,599) | \$(30,127,865) |
| BASIC EARNINGS (LOSS) PER SHARE (Note 2) | \$.01 | \$ (0.42) | \$ (1.55) |
| PRO FORMA INFORMATION (Note 2): | | | |
| Income before pro forma provision for income taxes | \$ 121,219 | | |
| Pro forma provision for income taxes | 41,214 | | |
| Pro forma net income | \$ 80,005 | | |
| PRO FORMA NET INCOME PER SHARE | \$.00 | | |
| WEIGHTED AVERAGE NUMBER OF BASIC COMMON SHARES OUTSTANDING (Note 2) | 20,000,000 | 20,000,000 | 20,000,000 |

The accompanying notes are an integral part of these consolidated statements.

ECONOPHONE, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' EQUITY (DEFICIT)
FOR THE YEARS ENDED DECEMBER 31, 1995, 1996 AND 1997

| | Common Stock | | Additional Paid-in Capital | Retained Earnings (Accumulated Deficit) | Cumulative Translation Adjustment | Total |
|--|--------------|---------|----------------------------------|--|---|----------------|
| | Shares | Amount | | | | |
| BALANCE, December 31, 1994 | 20,000,000 | \$2,000 | \$ 391,883 | \$ 694,217 | \$ — | \$ 1,088,100 |
| Net income | — | — | — | 121,219 | — | 121,219 |
| Distribution of S Corporation Earnings | — | — | — | (499,301) | — | (499,301) |
| BALANCE, December 31, 1995 | 20,000,000 | 2,000 | 391,883 | 316,135 | — | 710,018 |
| Distribution of S corporation earnings | — | — | — | (316,135) | — | (316,135) |
| Contribution of capital to C corporation | — | — | 89,987 | — | — | 89,987 |
| Net loss | — | — | — | (8,311,599) | — | (8,311,599) |
| Accretion of preferred stock | — | — | — | (15,115) | — | (15,115) |
| Dividends on preferred stock | — | — | — | (281,400) | — | (281,400) |
| BALANCE, December 31, 1996 | 20,000,000 | 2,000 | 481,870 | (8,608,114) | — | (8,124,244) |
| Net loss | — | — | — | (30,127,865) | — | (30,127,865) |
| Warrants | — | — | 5,600,000 | — | — | 5,600,000 |
| Accretion of preferred stock | — | — | — | (91,054) | — | (91,054) |
| Dividends on preferred stock | — | — | — | (878,594) | — | (878,594) |
| Cumulative translation adjustment | — | — | — | — | (103,880) | (103,880) |
| BALANCE, December 31, 1997 | 20,000,000 | \$2,000 | \$6,081,870 | \$(39,705,627) | \$(103,880) | \$(33,725,637) |

The accompanying notes are an integral part of these consolidated statements.

ECONOPHONE, INC. AND SUBSIDIARIES
CONSOLIDATED STATEMENTS OF CASH FLOWS

| | For the Years Ended December 31, | | |
|--|-------------------------------------|---------------|----------------|
| | 1995 | 1994 | 1993 |
| CASH FLOWS FROM OPERATING ACTIVITIES: | | | |
| Net income (loss) | \$ 121,219 | \$(8,311,599) | \$(30,127,865) |
| Adjustments to reconcile net income (loss) to net cash provided by (used in) operating activities: | | | |
| Depreciation and amortization | 388,508 | 1,049,651 | 3,615,283 |
| Provision for doubtful accounts | 721,215 | 290,762 | 832,159 |
| Accrued interest expense | — | — | 280,000 |
| Changes in assets and liabilities: | | | |
| Increase in accounts receivable | (5,694,774) | (887,670) | (9,682,370) |
| Increase in prepaid expenses and other current assets | (189,879) | (350,500) | (1,094,206) |
| Increase in other assets | — | (1,514,284) | (3,276,550) |
| Increase in accounts payable, accrued expenses and other current liabilities | 6,196,439 | 3,351,953 | 14,773,832 |
| Increase in interest accrued on senior notes | — | — | 10,662,500 |
| Increase in deferred revenue | 494,409 | 365,394 | 1,707,803 |
| Net cash provided by (used in) operating activities | 2,037,137 | (6,006,291) | (12,219,414) |
| CASH FLOWS FROM INVESTING ACTIVITIES: | | | |
| Purchases of property and equipment | (1,206,077) | (4,246,997) | (13,266,837) |
| Net cash used in investing activities | (1,206,077) | (4,246,997) | (13,266,837) |
| CASH FLOWS FROM FINANCING ACTIVITIES: | | | |
| Net proceeds from sale of preferred stock | — | 12,061,425 | — |
| Proceeds from line of credit | 1,760,000 | 800,000 | — |
| Repayment of line of credit | (1,860,000) | (1,000,000) | — |
| Proceeds from short-term borrowings | — | 5,436,492 | — |
| Repayments of short-term borrowings | — | (3,308,855) | (2,127,726) |
| Proceeds from long-term debt | — | 222,198 | — |
| Repayments of long-term debt | (116,400) | (447,910) | (428,268) |
| Repayments of notes payable—related party | (9,383) | (10,636) | (11,922) |
| Repayments of capital leases | (85,379) | (117,844) | (22,812) |
| Dividends paid | (499,301) | (250,148) | — |
| Proceeds from senior notes | — | — | 149,400,000 |
| Proceeds from warrants | — | — | 5,600,000 |
| Payment of debt issuance cost | — | — | (6,335,491) |
| Proceeds from bridge loan | — | — | 7,000,000 |
| Repayments of bridge loan | — | — | (7,000,000) |
| Net cash provided by (used in) financing activities | (810,463) | 16,418,809 | 145,843,981 |
| Increase in cash and cash equivalents, (including restricted cash and securities) | 20,597 | 6,165,519 | 120,357,730 |
| Cash and cash equivalents, beginning of period | 83,252 | 109,122 | 6,271,041 |
| Cash and cash equivalents, end of period (including restricted cash and securities) | \$ 106,122 | \$ 6,271,041 | \$126,629,371 |
| SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION: | | | |
| Cash paid during the period for: | | | |
| Interest | \$ 193,445 | \$ 210,280 | \$ 504,981 |
| Income Taxes | 193,254 | — | — |
| SUPPLEMENTAL DISCLOSURE OF NONCASH ACTIVITIES: | | | |
| Accretion of preferred stock | \$ — | \$ 15,115 | \$ 91,054 |
| Accrued dividends on preferred stock | — | 281,490 | 878,554 |
| Capital leases entered into | 471,000 | 222,900 | 5,733,855 |

The accompanying notes are an integral part of these consolidated statements.

ECONOPHONE SERVICES INC. ORIGINAL SHEET 1
SOUTH DAKOTA PUC TARIFF NO. 1
TELECOMMUNICATIONS SERVICES TARIFF

TITLE SHEET
SOUTH DAKOTA TELECOMMUNICATIONS TARIFF

This tariff contains the descriptions, regulations, and rates applicable to the furnishing of service or facilities for Telecommunications Services furnished by Econophone Services Inc. ("ESI"), with principal offices at 95 Route 17 South, Suite 102, Paramus, New Jersey 07652. This tariff applies for services furnished within the State of South Dakota. This tariff is on file with the South Dakota Public Utilities Commission, and copies may be inspected, during normal business hours, at the company's principal place of business.

ISSUED: July 23, 1998 EFFECTIVE: , 1998
ISSUED BY: Alfred West
95 Route 17 South, Suite 102
Paramus, New Jersey 07652

ISSUED: July 23, 1998 Alfred West EFFECTIVE: , 1998
ISSUED BY: 95 Route 17 South, Suite 102
 Paramus, New Jersey 07652

ECONOPHONE SERVICES INC. ORIGINAL SHEET 2
 SOUTH DAKOTA PUC TARIFF NO. 1
TELECOMMUNICATIONS SERVICES TARIFF
RESERVED FOR FUTURE USE

ISSUED: July 23, 1998 Alfred West EFFECTIVE: , 1998
ISSUED BY: 95 Route 17 South, Suite 102
 Paramus, New Jersey 07652

ECONOPHONE SERVICES INC.

ORIGINAL SHEET 3
SOUTH DAKOTA PUC TARIFF NO. 1
TELECOMMUNICATIONS SERVICES TARIFF

CHECK SHEET

Sheets 1 through 30 inclusive of this tariff are effective as of the date shown at the bottom of the respective sheet(s). Original and revised sheets as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this sheet.

| <u>SHEET</u> | <u>REVISION</u> |
|--------------|-----------------|
| 1 | |
| 2 | Original |
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| 28 | Original |
| 29 | Original |
| 30 | Original |

* New or Revised Sheet

ISSUED: July 23, 1998
ISSUED BY:

Alfred West
95 Route 17 South, Suite 102
Paramus, New Jersey 07652
EFFECTIVE: , 1998

ISSUED: July 23, 1998

Alfred West
95 Route 17 South, Suite 102
Paramus, New Jersey 07652

EFFECTIVE: , 1998

ECONOPHONE SERVICES INC. ORIGINAL SHEET 4
SOUTH DAKOTA PUC TARIFF NO. 1
TELECOMMUNICATIONS SERVICES TARIFF

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ISSUED: July 23, 1998

Alfred West
95 Route 17 South, Suite 102
Paramus, New Jersey 07652

EFFECTIVE: , 1998

ECONOPHONE SERVICES INC. ORIGINAL SHEET 5
SOUTH DAKOTA PUC TARIFF NO. 1
TELECOMMUNICATIONS SERVICES TARIFF

TARIFF FORMAT

A. Sheet Numbering: Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between pages 11 and 12 would be page 11.1.

B. Sheet Revision Numbers: Revision numbers also appear in the upper right corner of each sheet where applicable. These numbers are used to indicate the most current page version on file with the Commission. For example, 4th Revised Sheet 13 cancels 3rd Revised Sheet 13. Consult the Check Sheet for the sheets 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).I
2.1.1.A.1.(a).I.(i)
2.1.1.A.1.(a).I.(i).(1)

D. Check Sheets: When a tariff filing is made with the Commission, an updated Check Sheet accompanies the tariff filing. The Check Sheet lists the sheets contained in the tariff, with a cross-reference to the current Revision Number. When new sheets 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 sheet if these are the only changes made to it (i.e., the format, etc. remains the same, just revised revision levels on some sheets). The tariff user should refer to the latest Check Sheet to find out if a particular sheet is the most current on Commission file.

ISSUED: July 23, 1998

EFFECTIVE: , 1998

ISSUED BY:

Alfred West
95 Route 17 South, Suite 102
Paramus, New Jersey 07652

ECONOPHONE SERVICES INC.

ORIGINAL SHEET 7

SOUTH DAKOTA PUC TARIFF NO. 1

TELECOMMUNICATIONS SERVICES TARIFF

SECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS

Access Line - An arrangement from a local exchange telephone company or other common carrier, using either dedicated or switched access, which connects a Customer's location to ESI's location or switching center.

Authorization Code - A numerical code, one or more of which may be assigned to a Customer, to enable ESI to identify the origin of the Customer so it may rate and bill the call. Automatic number identification (ANI) is used as the authorization code wherever possible.

Commission - Used throughout this tariff to mean the South Dakota Public Utilities Commission.

Customer - The person, firm, corporation or other legal entity which orders the services of ESI or purchases a ESI Prepaid Calling Card and/or originates prepaid calls using such cards and is responsible for the payment of charges and for compliance with the Company's tariff regulations.

Company or ESI - Used throughout this tariff to mean Econophone Services Inc., a Delaware Corporation.

Holiday - New Year's Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Holidays shall be billed at the evening rate from 8 a.m. to 11 p.m. After 11 p.m., the lower night rate shall go into effect.

Prepaid Account - An inventory of Telecom Units purchased in advance by the Customer, and associated with one and only one Authorization Code as contained in a specific Prepaid Calling Card.

Prepaid Calling Card - A card issued by the Company, containing an Authorization Code which identifies a specific Prepaid Account of Telecom Units, which enables calls to be processed, account activity to be logged, and balances to be maintained, on a prepayment basis.

ISSUED: July 23, 1998

EFFECTIVE: , 1998

ISSUED BY:

Alfred West
95 Route 17 South, Suite 102
Paramus, New Jersey 07652

ECONOPHONE SERVICES INC.

ORIGINAL SHEET 8
SOUTH DAKOTA PUC TARIFF NO. 1

TELECOMMUNICATIONS SERVICES TARIFF

Telecom Unit - A measurement of telecommunications service equivalent to one minute of usage between any two points within the State of South Dakota.

Telecommunications - The transmission of voice communications or, subject to the transmission capabilities of the services, the transmission of data, facsimile, signaling, metering, or other similar communications.

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

ISSUED: July 23, 1998 EFFECTIVE: , 1998
ISSUED BY: Alfred West
95 Route 17 South, Suite 102
Paramus, New Jersey 07652

ISSUED: July 23, 1998
ISSUED BY:

Alfred West
95 Route 17 South, Suite 102
Paramus, New Jersey 07652

EFFECTIVE: , 1998

ECONOPHONE SERVICES INC. ORIGINAL SHEET 9
SOUTH DAKOTA PUC TARIFF NO. 1
TELECOMMUNICATIONS SERVICES TARIFF

SECTION 2 - RULES AND REGULATIONS

2.1 Undertaking of the Company

This tariff contains the regulations and rates applicable to intrastate resale telecommunications services provided by ESI for telecommunications between points within the State of South Dakota. Resale services are furnished subject to the availability of facilities and subject to the terms and conditions of this tariff in compliance with limitations set forth in the Commission's rules. The Company's services are provided on a statewide basis and are not intended to be limited geographically. The Company offers service to all those who desire to purchase service from the Company consistent with all of the provisions of this tariff. Customers interested in the Company's services shall file a service application with the Company which fully identifies the Customer, the services requested and other information requested by the Company. The Company reserves the right to examine the credit record and check the references of all applicants and Customers. The Company may examine the credit profile/record of any applicant prior to accepting the service order. The service application shall not in itself obligate the Company to provide services or to continue to provide service if a later check of applicant's credit record is, in the opinion of the Company, contrary to the best interest of the Company. The Company may act as the Customer's agent for ordering access connection facilities provided by other carriers or entities when authorized by the Customer, to allow connection of a Customer's location to a service provided by the Company. The Customer shall be responsible for all charges due for such service arrangement. The Company does not own any switching, transmission or other physical facilities in South Dakota.

ISSUED: July 23, 1998
ISSUED BY:

Alfred West
95 Route 17 South, Suite 102
Paramus, New Jersey 07652

EFFECTIVE: , 1998

ISSUED: July 23, 1998

EFFECTIVE: , 1998

ISSUED BY:

Alfred West
95 Route 17 South, Suite 102
Paramus, New Jersey 07652

ECONOPHONE SERVICES INC.

ORIGINAL SHEET 10

SOUTH DAKOTA PUC TARIFF NO. 1

TELECOMMUNICATIONS SERVICES TARIFF

- 2.1.1 The services provided by ESI are not part of a joint undertaking with any other entity providing telecommunications channels, facilities, or services, but may involve the resale of the Message Toll Services (MTS) and Wide Area Telecommunications Services (WATS) of underlying common carriers subject to the jurisdiction of this Commission.
- 2.1.2 The rates and regulations contained in this tariff apply only to the resale services furnished by ESI and do not apply, unless otherwise specified, to the lines, facilities, or services provided by a local exchange telephone company or other common carriers for use in accessing the services of ESI.
- 2.1.3 The Company reserves the right to limit the length of communications, to discontinue furnishing services, or limit the use of service necessitated by conditions beyond its control, including, without limitation: lack of satellite or other transmission medium capacity; the revision, alteration or repricing of the Underlying Carrier's tariffed offerings; or when the use of service becomes or is in violation of the law or the provisions of this tariff.

2.2 Use of Services

- 2.2.1 ESI's services may be used for any lawful purpose consistent with the transmission and switching parameters of the telecommunications facilities utilized in the provision of services, subject to any limitations set forth in this Section 2.2.
- 2.2.2 The use of ESI's services to make calls which might reasonably be expected to frighten, abuse, torment, or harass another or in such a way as to unreasonably interfere with use by others is prohibited.

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EFFECTIVE: , 1998

ISSUED BY:

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ECONOPHONE SERVICES INC.

ORIGINAL SHEET 12

SOUTH DAKOTA PUC TARIFF NO. 1

TELECOMMUNICATIONS SERVICES TARIFF

- 2.3.3 No agent or employee of any other carrier or entity shall be deemed to be an agent or employee of the Company.
- 2.3.4 The Company's liability for damages, resulting in whole or in part from or arising in connection with the furnishing of service under this tariff, including but not limited to mistakes, omissions, interruptions, delays, errors, or other defects or misrepresentations shall not exceed an amount equal to the charges provided for under this tariff for the long distance call for the period during which the call was affected. No other liability in any event shall attach to the Company.
- 2.3.5 The Company shall not be liable for and shall be indemnified and saved harmless by any Customer or by any other entity from any and all loss, claims, demands, suits, or other action or any liability whatsoever, whether suffered, made, instituted, or asserted by any Customer or any other entity for any personal injury to, or death of, any person or persons, and for any loss, damage, defacement or destruction of the premises of any Customer or any other entity or any other property whether owned or controlled by the Customer or others.
- 2.3.6 The Company shall not be liable for any indirect, special, incidental, or consequential damages under this tariff including, but not limited to, loss of revenue or profits, for any reason whatsoever, including the breakdown of facilities associated with the service, or for any mistakes, omissions, delays, errors, or defects in transmission occurring during the course of furnishing service.

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ORIGINAL SHEET 13
SOUTH DAKOTA PUC TARIFF NO. 1
TELECOMMUNICATIONS SERVICES TARIFF

2.3.7 The remedies set forth herein are exclusive and in lieu of all other warranties and remedies, whether express, implied, or statutory, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

2.4 Responsibilities of the Customer

2.4.1 The Customer is responsible for placing any necessary orders and complying with tariff regulations. The Customer is also responsible for the payment of charges for services provided under this tariff.

2.4.2 The Customer is responsible for charges incurred for special construction and/or special facilities which the Customer requests and which are ordered by ESI on the Customer's behalf.

2.4.3 If required for the provision of ESI's services, the Customer must provide any equipment space, supporting structure, conduit and electrical power without charge to ESI.

2.4.4 The Customer is responsible for arranging access to its premises at times mutually agreeable to ESI and the Customer when required for ESI personnel to install, repair, maintain, program, inspect or remove equipment associated with the provision of ESI's services.

2.4.5 The Customer shall cause the temperature and relative humidity in the equipment space provided by Customer for the installation of ESI's equipment to be maintained within the range normally provided for the operation of microcomputers.

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TELECOMMUNICATIONS SERVICES TARIFF

- 2.4.6 The Customer shall ensure that the equipment and/or system is properly interfaced with ESI's facilities or services, that the signals emitted into ESI's network are of the proper mode, bandwidth, power and signal level for the intended use of the subscriber and in compliance with criteria set forth in this tariff, and that the signals do not damage equipment, injure personnel, or degrade service to other Customers. If the Federal Communications Commission or some other appropriate certifying body certifies terminal equipment as being technically acceptable for direct electrical connection with interstate communications service, ESI will permit such equipment to be connected with its channels without the use of protective interface devices. If the Customer fails to maintain the equipment and/or the system properly, with resulting imminent harm to ESI equipment, personnel or the quality of service to other Customers, ESI may, upon written notice, require the use of protective equipment at the Customer's expense. If this fails to produce satisfactory quality and safety, ESI may, upon written notice, terminate the Customer's service.
- 2.4.7 The Customer must pay ESI for replacement or repair of damage to the equipment or facilities of ESI caused by negligence or willful act of the Customer or others, by improper use of the services, or by use of equipment provided by Customer or others.
- 2.4.8 The Customer must pay for the loss through theft of any ESI equipment installed at Customer's premises.
- 2.4.9 If ESI installs equipment at Customer's premises, the Customer shall be responsible for payment of any applicable installation charge.

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ECONOPHONE SERVICES INC.

ORIGINAL SHEET 17

SOUTH DAKOTA PUC TARIFF NO. 1

TELECOMMUNICATIONS SERVICES TARIFF

2.6 Credit Allowance

- 2.6.1 Credit allowance for the interruption of service which is not due to the Company's testing or adjusting, negligence of the Customer, or to the failure of channels or equipment provided by the Customer, are subject to the general liability provisions set forth in 2.3 herein. It shall be the obligation of the Customer to notify the Company immediately of any interruption in service for which a credit allowance is desired. Before giving such notice, the Customer shall ascertain that the trouble is not being caused by any action or omission by the Customer within his control, or is not in wiring or equipment, if any, furnished by the Customer and connected to the Company's facilities.
- 2.6.2 No credit is allowed in the event that service must be interrupted in order to provide routine service quality or related investigations.
- 2.6.3 Credit for failure of service shall be allowed only when such failure is caused by or occurs due to causes within the control of the Company or in the event that the Company is entitled to a credit for the failure of the facilities of the Company's Underlying Carrier used to furnish service.
- 2.6.4 Credit for interruption shall commence after the Customer notifies the Company of the interruption or when the Company becomes aware thereof, and ceases when service has been restored.
- 2.6.5 For purposes of credit computation, every month shall be considered to have 720 hours.

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TELECOMMUNICATIONS SERVICES TARIFF

2.6.6 No credit shall be allowed for an interruption of a continuous duration of less than two hours.

2.6.7 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 facilities affected for each hour or major fraction thereof that the interruption continues.

Credit Formula:

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

"A" - outage time in hours

"B" - monthly charge for affected activity

2.7 Restoration of Service

The use and restoration of service shall be in accordance with the priority system specified in part 64, Subpart D of the Rules and Regulations of the Federal Communications Commission.

2.8 Deposit

The Company does not require deposits to commence service.

2.9 Advance Payments

ESI does not require advance payments.

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TELECOMMUNICATIONS SERVICES TARIFF

2.10 Payment and Billing

- 2.10.1 Service is provided and billed on a billing cycle basis, beginning on the date that service becomes effective. Billing is payable upon receipt. A late fee will be assessed on unpaid amounts 30 days after rendition of bills.
- 2.10.2 The customer is responsible for payment of all charges for services furnished to the Customer, as well as to all persons using the Customer's codes, exchange lines, facilities, or equipment, with or without the knowledge or consent of the Customer. The security of the Customer's Authorization Codes, subscribed exchange lines, and direct connect facilities is the responsibility of the Customer. All calls placed using direct connect facilities, subscribed exchange lines, or Authorization Codes will be billed to and must be paid by the Customer. Recurring charges and non-recurring charges are billed in advance. Charges based on actual usage during a month and any accrued interest will be billed monthly in arrears.
- 2.10.3 All bills are presumed accurate, and shall be binding on the customer unless objection is received by the Company in writing within 30 days after such bills are rendered. No credits, refunds, or adjustments shall be granted if demand therefore is not received by the Company in writing within such 30 day period.

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2.11 Collection Costs

In the event Company is required to initiate legal proceedings to collect any amounts due to Company for regulated or non-regulated services, equipment or facilities, or to enforce any judgment obtained against a Customer, or for the enforcement of any other provision of this tariff or applicable law, Customer shall, in addition to all amounts due, be liable to Company for all reasonable costs incurred by Company in such proceedings and enforcement actions, including reasonable attorneys' fees, collection agency fees or payments, and court costs. In any such proceeding, the amount of collection costs, including attorneys' fees, due to the Company, will be determined by the court.

2.12 Taxes

All federal, state and local taxes, assessments, surcharges, or fees, including sales taxes, use taxes, gross receipts taxes, and municipal utilities taxes, are billed as separate line items and are not included in the rates quoted herein.

2.13 Late Charge

A late fee of 1.5% per month or the amount otherwise authorized by law, whichever is lower, will be charged on any past due balances.

2.14 Returned Check Charge

A fee of \$20.00 will be charged whenever a check or draft presented for payment for service is not accepted by the institution on which it is written.

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ECONOPHONE SERVICES INC. ORIGINAL SHEET 21
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TELECOMMUNICATIONS SERVICES TARIFF

SECTION 3 - DESCRIPTION OF SERVICE

3.1 Computation of Charges

- 3.1.1 The total charge for each completed call may be a variable measured charge dependent on the duration, distance and time of day of the call. The total charge for each completed call may also be dependent only on the duration of the call, i.e. a statewide flat rate per minute charge. The variable measured charge is specified as a rate per minute which is applied to each minute. All calls are measured in increments as set forth in the Rates Section herein. All calls are rounded up to the next whole increment.
- 3.1.2 Where mileage bands appear in a rate table, rates for all calls are based upon the airline distance between the originating and terminating points of the call, as determined by the vertical and horizontal coordinates associated with the exchange (the area code and three digit central office code) associated with the originating and terminating telephone numbers. If the Customer obtains access to the Company's network by a dedicated access circuit, that circuit will be assigned an exchange for rating purposes based upon the Customer's main telephone number at the location where the dedicated access circuit terminates. The vertical and horizontal (V & H) coordinates for each exchange and the airline distance between them will be determined according to industry standards.

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3.1.3 Timing begins when the called station is answered and two way communication is possible, as determined by standard industry methods generally in use for ascertaining answer, including hardware answer supervision in which the local telephone company sends a signal to the switch or the software utilizing audio tone detection. Recognition of answer supervision is the responsibility of the Underlying Carrier. Timing for each call ends when either party hangs up. ESI will not bill for uncompleted calls.

3.2 Customer Complaints and/or Billing Disputes

Customer inquiries or complaints regarding service or accounting may be made in writing or by telephone to the Company at:

95 Route 17 South, Suite 102
Paramus, New Jersey 07652
(800) 454-7091

Any objection to billed charges should be reported promptly to ESI. Adjustments to Customers' bills shall be made to the extent that records are available and/or circumstances exist which reasonably indicate that such charges are not in accordance with approved rates or that an adjustment may otherwise be appropriate. Where overbilling of a subscriber occurs, due either to Company or subscriber error, no liability exists which will require the Company to pay any interest, dividend or other compensation on the amount overbilled.

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3.5 Service Offerings

3.5.1 1+ Dialing

The customer utilizes "1+" dialing, or "101XXXX" dialing followed by "1 + ten digits" for interLATA calls, or dials "101XXXX" followed by "1 + 7 digits" or "1 + 10 digits" for intraLATA calls.

3.5.2 Travel Cards

The Customer utilizes an 11 digit "toll-free" access number established by the Company to access a terminal. Upon receiving a voice prompt, the Customer uses push button dialing to enter an identification code assigned by the Company, and the ten digit number of the called party.

3.5.3 800 Service (Toll-Free)

This service is inbound calling only where an 800, 888 or other toll-free prefix number rings into a Customer's premise routed to a specific telephone number or terminated over a dedicated facility.

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3.5.4 ESI Prepaid Calling Cards.

This service permits use of Prepaid Calling Cards for placing long distance calls. Customers may purchase ESI Prepaid Calling Cards at a variety of retail outlets or through other distribution channels. ESI Prepaid Calling Cards are available at a variety of face values. ESI Prepaid Calling Card service is accessed using the ESI toll-free number printed on the card. The caller is prompted by an automated voice response system to enter his/her Authorization Code, and then to enter the terminating telephone number. ESI's processor tracks the call duration on a real time basis to determine the number of Telecom Units consumed. The total consumed Telecom Units for each call is deducted from the remaining Telecom Unit balance on the Customer's ESI Prepaid Calling Card.

All calls must be charged against Prepaid Calling Card that has a sufficient Telecom Unit balance. A Customer's call will be interrupted with an announcement when the balance is about to be depleted.

In order to continue the call, the Customer can either call the toll-free number on the back of the ESI Prepaid Calling Card and "recharge" the balance on the card using a nationally recognized credit card, or the Customer can throw the card away and purchase a new one. Calls in progress will be terminated by the Company if the balance on the ESI Prepaid Calling Card is insufficient to continue the call and the Customer fails to enter the number of another valid ESI Prepaid Calling Card prior to termination.

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A card will have no expiration date, however, after 6 months after activation, a \$1 per month service charge will be assessed on all cards. The Company will not refund unused balances.

A credit allowance for ESI Prepaid Calling Card Service is applicable to calls that are interrupted due to poor transmission, one-way transmission, or involuntary disconnection of a call. To receive the proper credit, the Customer must notify the Company at the designated toll-free customer service number printed on the ESI Prepaid Calling Card and furnish the called number, the trouble experienced (e.g. cut-off, noisy circuit, etc.), and the approximate time that the call was placed.

When a call charged to an ESI Prepaid Calling Card is interrupted due to cut-off, one-way transmission, or poor transmission conditions, the Customer will receive a credit equivalent of one Telecom Unit.

Credit allowances for calls pursuant to ESI Prepaid Card Service do not apply for interruptions not reported promptly to the Company or interruptions that are due to the failure of power, equipment or systems not provided by the Company.

Credit for failure of service shall be allowed only when such failure is caused by or occurs due to causes within the control of the Company.

The Company will block all calls beginning with the NPA "900" and NXX "976" calls, therefore such calls can not be completed.

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3.5.6 Specialized Pricing Arrangements.

Customized service packages and competitive pricing packages at negotiated rates may be furnished on a case-by-case basis in response to requests by Customers to the Company for proposals or for competitive bids. Service offered under this tariff provision will be filed with the Commission. Specialized rates or charges will be made available to similarly situated Customers on a non-discriminatory basis.

3.5.7 Emergency Call Handling Procedures

Emergency "911" calls are not routed to company, but are completed through the local network at no charge.

3.5.8 Promotional Offerings

The Company may, from time to time, make promotional offerings to enhance the marketing of its services. These offerings may be limited to certain dates, times and locations. The Company will notify the Commission of such offerings as required by Commission rules and regulations.

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SECTION 4 - RATES

4.1 1+ Dialing

\$0.1625 per minute

A \$2 per month service charge applies per billing telephone number. Calls are billed in 6 second increments.

4.2 Travel Cards

\$.175 per minute for company-marketed VoiceNet brand
\$.249 per minute for jointly-marketed VoiceNet brand
\$.290 per minute for Econophone Brand, private brand & promotional cards

An activation fee of \$.99 applies per card. Calls are billed in 6 second increments, with a 30 second minimum per call.

4.3 Toll Free

\$0.12 per minute

Calls are billed in 6 second increments.

4.4 Prepaid Calling Cards

\$.14 Per Telecom Unit

A \$.25 per call service charge applies. Cards will be decremented by one Telecom Unit for each minute or fractional part of a minute for intrastate calls.

4.5 Directory Assistance

\$.65

4.6 Returned Check Charge

\$20.00

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TELECOMMUNICATIONS SERVICES TARIFF

4.7 Rate Periods

| | Monday - Friday | Sat. | Sun. |
|--------------------------|---------------------------|------|---------------------------|
| 8 a.m. to 5 p.m.* | Daytime Rate Period | | |
| 5 p.m. to 11 p.m.* | Evening Rate Period | | Evening Rate Period |
| 11 p.m. to 8 a.m.* | Night/Weekend Rate Period | | |

* To, but not including
When a message spans more than one rate period, total charges for the minutes in each rate period are calculated and the results for each rate period are totaled to obtain the total message charge. If the calculation results in a fractional charge, the amount will be rounded down to the lower cent.

4.8 Payphone Dial Around Surcharge

A dial around surcharge of \$.35 per call will be added to any completed INTRASTATE toll access code and subscriber 800/888 type calls placed from a public or semi-public payphone.

4.9 Universal Service Fund Assessment & Presubscribed Interexchange Carrier Charge

The Customer will be assessed a monthly federal Universal Service Fund Contribution charge on all telecommunications services, which in no event shall be less than the prevailing contribution percentage rate charged the Company on intrastate traffic by the Universal Service Administrative Company (or any successor). A Presubscribed Interexchange Carrier Charge ("PICC") applies on a monthly basis to all Customer monthly bills at the prevailing rate.

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South Dakota Public Utilities Commission
WEEKLY FILINGS

For the Period of July 17, 1998 through July 23, 1998

- TC98-134 Dakota Telecommunications Group, Inc filed, on behalf of Dakota Telecommunications Group, Inc and CommNet Cellular, Inc., for Commission approval the negotiated Reciprocal Compensation Agreement between Dakota Telecommunications Group, Inc and CommNet Cellular, Inc dated July 10, 1998. Any person wishing to comment on the parties' request for approval may do so by filing written comments with the Commission and the parties to the agreement no later than August 12, 1998. Parties to the agreement may file written responses to the comments no later than August 31, 1998.
Staff Attorney: Camron Hoseck
Date Filed: July 17, 1998
Intervention Deadline: Responses Due August 12, 1998
- TC97-165 First Amendment To Agreement For Service Resale Between Mideo Communications and U S WEST Communications, 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 August 12, 1998. Parties to the amendment may file written responses to the comments no later than August 31, 1998.
Staff Attorney: Camron Hoseck
Date Filed: July 17, 1998
Intervention Deadline: Responses Due August 12, 1998
- TC98-135 Application by Logix Communications Corporation f/k/a Dobson Wireless, Inc for a Certificate of Authority to operate as a telecommunications company within the state of South Dakota. Logix proposes to provide "Long Distance Service, 800/888 (Inbound) Long Distance Service, Travel Calling Card Service, Prepaid Calling Card, and Operator Services."
Staff Analyst: David Jacobson Staff Attorney: Karen Cremer
Intervention Deadline: August 7, 1998
- TC98-136 Application by Econophone, Inc to transfer its Certificate of Authority issued in Docket TC96-095 on July 18, 1996, to its wholly-owned subsidiary, Econophone Services, Inc.
Staff Analyst: David Jacobson Staff Attorney: Karen Cremer
Intervention Deadline: August 7, 1998

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five business days of this filing. Phone: 605-773-3705 Fax: 605-773-3809.

You may receive this listing and other PUC publications via our website or via internet e-mail. You may subscribe to the PUC mailing list at <http://www.state.sd.us/state/executive/puc/puc.htm>

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

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Telephone: (770) 232-9200
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September 9, 1998

VIA AIRBORNE EXPRESS

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

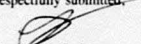
Re: Econophone, Inc.

Dear Mr. Bullard:

Pursuant to a letter from Dave Jacobson dated August 19, 1998, enclosed please find for filing an original and one (1) copy of an application to supplement the information filed with the Commission on July 23, 1998.

I have also enclosed an extra copy of this cover letter to be date stamped and returned to me in the enclosed self-addressed prepaid envelope. If you have any questions or if I may provide you with any additional information, please do not hesitate to contact me. Thank you.

Respectfully submitted,


Lance J.M. Steinhart
Attorney for Econophone, Inc.
and Econophone Services Inc.

Enclosures
cc: Richard Shorten, Esq.

APPLICATION FOR TRANSFER OF CERTIFICATE OF AUTHORITY
OF ECONOPHONE, INC.
FILED WITH THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE)
APPLICATION OF)
ECONOPHONE, INC.) Docket No. _____
FOR AN ORDER)
AUTHORIZING THE TRANSFER)
OF ITS CERTIFICATE OF)
AUTHORITY)

APPLICATION

Application is hereby made to the South Dakota Public Utilities Commission for an Order authorizing Econophone, Inc. to transfer its Certificate of Authority to its wholly-owned subsidiary, Econophone Services, Inc. ("Applicant"). The following information is furnished in support thereof:

1. Name, Address and Telephone Number of Applicant

Econophone Services Inc.
95 Route 17 South, Suite 102
Paramus, New Jersey 07652
201-226-1002/Phone

The Applicant will provide services under the name Econophone.

All inquiries regarding regulatory matters should be addressed to:

Lance J.M. Steinhart, Esq.
6455 East Johns Crossing, Suite 285
Duluth, Georgia 30097
(770) 232-9200
(770) 232-9208 (Fax)

All inquiries regarding complaints against the company should be addressed to:

Richard Shorten, Esq.
95 Route 17 South, Suite 102
Paramus, New Jersey 07652
201-226-1002/Phone

2. Registered Agent

The name and address of the Applicant's registered agent are:

Ronald Olinger
117 E. Capitol
Sioux Falls, SD 57101

3. Description of the Applicant

Applicant is a wholly-owned subsidiary of Econophone, Inc and is a Delaware Corporation whose date of incorporation was February 27, 1998. Applicant's authority to transact business as a foreign corporation was filed with the Commission on July 23, 1998. A copy of the Applicant's Articles of Incorporation, as amended, is attached hereto.

4. Facilities

Applicant does not own or maintain any transmission facilities or switching equipment in the State of South Dakota. The Applicant will provide services through Worldcom, MCI and Qwest, its underlying carriers.

5. Stockholders

The names and addresses of all 5% or greater stockholders of Applicant are as follows:

| Name and Address | Shares Owned | Percentage of all Shares Issued and Outstanding and Voting Control |
|---|--------------|--|
| Econophone, Inc. 95 Route 17 South, Suite 102 Paramus, New Jersey 07652 | 100 | 100% |

6. Officers and Directors

The name and address of the officers and directors of

Applicant are as follows:

Officers and Directors

| | |
|-------------------------|-----------------------------|
| Alfred West | CEO & Chairman |
| Alan Levy | President, COO & Director |
| Kevin A. Alward | President of North America |
| Phillip J. Storin | Sr. VP & CFO |
| Richard L. Shorten, Jr. | Sr. VP & Gen. Counsel |
| Ira Riesenberg | Controller & Assistant Sec. |
| Gary S. Bondi | Treasurer & Director |
| Steven West | Director |
| Stephen Munger | Director |

The above-named individuals can be reached at 95 Route 17
South, Suite 102, Paramus, New Jersey 07652.

7. Corporate Ownership

The name and address of any corporation, association or
similar organization holding a five percent (5%) or greater
ownership in the Applicant is as follows:

Econophone, Inc.
95 Route 17 South, Suite 102
Paramus, New Jersey 07652

8. Subsidiaries owned or controlled by Applicant

None

9. Description of Services

Applicant is a switch-based reseller which intends to offer 1- direct dialing, 800 toll free, travel card and prepaid calling card service through the resale of telephone services provided by facilities-based interexchange carriers. Applicant has no points of presence in the State of South Dakota, thus Applicant neither owns, leases, nor operates any switching, transmission, or other physical facilities in the State of South Dakota, and no such facilities will be used by Applicant in providing service in the State of South Dakota. Rather, Applicant will be engaged in reselling services provided by facilities-based carriers within the State of South Dakota. Upon receiving certification, Applicant intends to provide services throughout the State of South Dakota.

Applicant or its parent company, Econophone, Inc., provides these services to customers on a jurisdictionally interstate basis subject to the FCC's jurisdiction and provides these services on jurisdictionally intrastate basis pursuant to certification, registration or tariff requirements, or on an unregulated basis, in all fifty states except Alaska.

Applicant intends to provide high quality service, with an industry standard blocking rate less than P.01. Its services will be available on a full-time basis, twenty-four hours a day, seven days a week, to customers within the geographic boundaries of the State of South Dakota.

10. Customer Billings and Customer Service

The Applicant's customers will be billed directly by Applicant which will utilize "real-time" completed call detail information from its underlying carriers and its own switching equipment. Applicant's toll-free number will be on all invoices and customer service will be provided in-house by the Applicant.

11. Description of Marketing

Applicant intends to market its services to primarily to small to mid-sized businesses. Applicant's initial target market will be the Eastern United States. All sales personnel will have telecommunications service experience. Applicant will market through direct sales in the form of telemarketing, through affinity groups, casual calling and personnel sales visits, in addition to print ads which will be utilized primarily to sell prepaid calling cards. Applicant does not intend to engage in multilevel marketing. No marketing materials are available at this time.

12. Financial Qualifications

Applicant is financially qualified to provide intrastate interexchange telecommunications services within South Dakota. In particular, Applicant has adequate access to the capital necessary to fulfill any obligations it may undertake with respect to the provision of intrastate telecommunications services in the State of South Dakota. A copy of Econophone, Inc.'s audited financial statements for the years ended December 31, 1996 and December 31, 1997 were filed with the Commission on July 23, 1998. Econophone will provide any necessary funding required for Applicant's South Dakota operations.

13. Tariff

A copy of Applicant's proposed tariff was filed with the Commission on July 23, 1998.

WHEREFORE, the undersigned Applicant requests that the South Dakota Public Utilities Commission enter an order granting this application.

DATED this 4th day of Sept, 1998.

Econophone Services Inc.

By: 
Lance J.M. Steinhart, Its Counsel

6455 East Johns Crossing
Suite 285
Duluth, Georgia 30097
(770) 232-9200

MAY-23-1998 01:37

P.02/02

STATE OF DELAWARE
DEPARTMENT OF STATE
DIVISION OF CORPORATIONS
FILED 05:00 AM 05/07/1998
20174013 - 206973

CERTIFICATE OF AMENDMENT
OF
CERTIFICATE OF INCORPORATION
OF
ECONOPHONE PERMIT INC.

ECONOPHONE PERMIT INC., a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware, DOES HEREBY CERTIFY:

FIRST: That all of the Directors of said corporation by a written consent given in accordance with the provisions of Section 141 (f) of the General Corporation Law of Delaware adopted a resolution proposing and declaring advisable the following Amendment to the Certificate of Incorporation of said corporation:

"RESOLVED, That Paragraph 1 of the Certificate of Incorporation be amended to read as follows:


1. The Corporate name is ECONOPHONE SERVICES INC."

SECOND: That in lieu of a meeting and vote of stockholders the stockholders have given written consent to said amendment in accordance with the provisions of Section 128 of the General Corporation Law of the State of Delaware and said written consent was filed with the corporation.

THIRD: That the aforesaid amendment was duly adopted in accordance with the applicable provisions of Section 242 and 228 of the General Corporation Law of Delaware.

FOURTH: That the capital of said corporation will not be reduced under or by reason of said Amendment.

IN WITNESS WHEREOF, said ECONOPHONE PERMIT INC., has caused this Certificate to be signed by its duly authorized officer this 7th day of May, 1998.

BY: 
Duly Authorized Officer
Name: PAUL S. MARTIN, JR.
Title: SALES AND SERVICE

TITLE: SOLE MFG PERMIT

TOTAL P. 02

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P. 02

State of Delaware
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "ECONOPHONE PERMIT INC.", FILED IN THIS OFFICE ON THE TWENTY-SEVENTH DAY OF FEBRUARY, A.D. 1998, AT 9 O'CLOCK A.M.



Edward J. Freel

Edward J. Freel, Secretary of State

2664970 8100
981077475

AUTHENTICATION: 8945619
DATE: 02-27-98



Edward J. Freel

Edward J. Freel, Secretary of State

2664970 R100

AUTHENTICATION:

8945619

081077475

DATE:

02-27-98

APR-02-1998 04:28

P.03

CERTIFICATE OF INCORPORATION

OF

ECONOPHONE PERMIT INC.

1. The name of the corporation is Econophone Permit Inc. (hereinafter the "Corporation").
2. The address of the Corporation's registered office in the state of Delaware is 1013 Centre Road, County of New Castle, City of Wilmington, Delaware 19805. Corporation Service Company is the Corporation's registered agent at that address.
3. The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of Delaware.
4. The Corporation shall have authority to issue 100 shares of Common Stock, par value one cent (\$0.01) per share.
5. The Board of Directors shall have the power to adopt, amend or repeal By-laws of the Corporation, subject to the right of the stockholders of the Corporation to adopt, amend or repeal any By-law.
6. The Corporation shall, to the fullest extent permitted by the provisions of the General Corporation Law of Delaware, as now or hereafter in effect, indemnify all persons whom it may indemnify under such provisions. The indemnification provided by this Section shall not limit or exclude any rights, indemnities or limitations of liability to which any person may be entitled whether as a matter of law, under the By-laws of the Corporation, by agreement, vote of the stockholders or disinterested directors of the Corporation or otherwise.
7. The personal liability of the directors of the Corporation is hereby eliminated to the fullest extent permitted by paragraph (7) of Subsection (b) of Section 102 of the General Corporation Law of Delaware, as the same may be amended and supplemented.
8. The election of directors of the Corporation need not be by written ballot, unless the By-laws of the Corporation otherwise provide.
9. Satika Shivde is the sole incorporator and her mailing address is c/o Schulte Roth & Zabel, 900 Third Avenue, New York, New York 10022

eliminated to the fullest extent permitted by paragraph (7) of Subsection (b) of Section 102 of the General Corporation Law of Delaware, as the same may be amended and supplemented.

8. The election of directors of the Corporation need not be by written ballot, unless the By-laws of the Corporation otherwise provide.

9. Sallia Shivde is the sole incorporator and her mailing address is c/o Schulte Roth & Zabel, 900 Third Avenue, New York, New York 10022

APR-02-1998 04:29

P.04

Date: February 27, 1998

ECONOPHONE PERMIT INC.

By: 

Sallia Shivde
Sole Incorporator

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

| | |
|---------------------------------------|--------------------|
| IN THE MATTER OF THE APPLICATION OF) | ORDER GRANTING THE |
| ECONOPHONE SERVICES, INC. FOR A) | TRANSFER OF A |
| CERTIFICATE OF AUTHORITY TO PROVIDE) | CERTIFICATE OF |
| TELECOMMUNICATIONS SERVICES IN) | AUTHORITY |
| SOUTH DAKOTA) | TC98-136 |

On July 23, 1998, the Public Utilities Commission (Commission), in accordance with SDCL 49-31-3 and ARSD 20.10.24.02, received an application from Econophone, Inc. to transfer its certificate of authority to its wholly-owned subsidiary, Econophone Services, Inc.

Econophone, Inc. was granted a certificate of authority by the Commission on July 18, 1996. At that time Econophone, Inc. was incorporated in the state of New York. Econophone, Inc. has reincorporated in the state of Delaware and is transferring its interexchange authorizations to Econophone Services, Inc. Econophone Services, Inc. notes that since customer service, invoices and promotional materials identify the carrier as Econophone, this change will be transparent to and have no effect on customers. A proposed tariff was filed by Econophone Services Inc. The Commission has classified long distance service as fully competitive.

On July 23, 1998, the Commission electronically transmitted notice of the filing and the intervention deadline of August 7, 1998, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled October 15, 1998, meeting, the Commission considered Econophone Inc.'s request to transfer its certificate of authority to its wholly-owned subsidiary, Econophone Services, Inc. Commission Staff recommended granting the transfer, subject to the condition that Econophone Services Inc. 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. Econophone Services, Inc. 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 Econophone Inc.'s application to transfer its certificate of authority to its wholly-owned subsidiary, Econophone Services, Inc., subject to the condition that Econophone Services, Inc. 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 Econophone Inc.'s application to transfer its certificate of authority to its wholly-owned subsidiary, Econophone Services, Inc., is hereby granted, subject to the condition that Econophone Services, Inc. not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission. It is

Dakota. The Commission approves Econophone Inc's application to transfer its certificate of authority to its wholly-owned subsidiary, Econophone Services, Inc., subject to the condition that Econophone Services, Inc. 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 Econophone Inc's application to transfer its certificate of authority to its wholly-owned subsidiary, Econophone Services, Inc., is hereby granted, subject to the condition that Econophone Services, Inc. not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission. It is

FURTHER ORDERED, that Econophone Services, Inc. shall file informational copies of tariff changes with the Commission as the changes occur.

Dated at Pierre, South Dakota, this 21st day of October, 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>William Kacko</u> |
| Date | <u>10/23/98</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 October 15, 1998
Docket No. TC98-136

This is to certify that

ECONOPHONE SERVICES, 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 15th day of October, 1998

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION:



James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner