

TC99-026

KC/AB

TC99-026

DOCKET NO.

In the Matter of

IN THE MATTER OF THE  
APPLICATION TO TRANSFER THE  
CERTIFICATE OF AUTHORITY FROM  
BLACK HILLS FIBERCOM, INC. TO  
BLACK HILLS FIBERCOM, L.L.C.

Public Utilities Commission of the State of South Dakota

DATE

MEMORANDA

DATE	MEMORANDA
3/25/99	Filed and Docketed;
4/1/99	Weekly Filing;
5/5/99	Order Granting COA;
5/5/99	Docket Closed.

TC99-026

LAW OFFICES  
**MORRILL THOMAS NOONEY & BRAUN, LLP** RECEIVED

625 NINTH STREET - 8TH FLOOR

P.O. Box 8108

RAPID CITY, SOUTH DAKOTA 57709-8108

TELEPHONE (605) 348-7516

FAX (605) 348-5852

MAR 25 1999

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

OF COUNSEL  
DAVID E. MORRILL

TIMOTHY L. THOMAS\*  
JOHN K. NOONEY\*  
LONNIE R. BRAUN  
PENNY TIBKE PLATNICK†  
GREGORY J. BERNARD

\*ALSO LICENSED IN WYOMING  
†ALSO LICENSED IN MINNESOTA

March 24, 1999

[e-mail: jknooney@mtslaw.com]

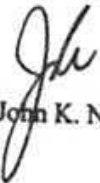
William Bullard, Jr., Executive Director  
South Dakota Public Utilities Commission  
State Capitol Building  
500 East Capitol Avenue  
Pierre, SD 57501-5070

Re: Black Hills Fibercom, Inc.

Dear Mr. Bullard:

Enclosed are the original and ten copies of the Application for Transfer of Certificate of Authority. Also enclosed is our check for \$250 for the filing fee.

Sincerely yours,



John K. Nooney

JKN:bjr

Enclosures

cc Camron Hoseck  
Ron Schaible  
Kyle D. White

TC99-026

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

RECEIVED

MAR 25 1999

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

In the Matter of the Application of Black )  
Hills Fibercom, Inc., for a Transfer of its )  
Certificate of Authority Originally Issued )  
to Its Predecessor, Black Hills Fiber )  
Systems, Inc., to Black Hills FiberCom, )  
L.L.C. )

Docket No. \_\_\_\_\_

APPLICATION FOR TRANSFER  
OF CERTIFICATE OF AUTHORITY  
CONSISTENT WITH ARSD 20:10:24:04.01

Black Hills Fibercom, Inc., now known as and originally known as Black Hills Fiber Systems, Inc., submits this Application, consistent with the provisions of ARSD 20:10:24:04.01, for a transfer and assignment of the Certificate of Authority originally granted by the South Dakota Public Utilities Commission to it on August 5, 1998, to Black Hills FiberCom, L.L.C. Consistent with the provisions of ARSD 20:10:24:02, Black Hills Fibercom, Inc., provides the following information concerning Black Hills FiberCom, L.L.C., for consideration by the South Dakota Public Utilities Commission.

1. Name, address and telephone number of Applicant: Black Hills FiberCom, L.L.C., 2045 Samco Road, P. O. Box 2115, Rapid City, SD 57709; 605-348-1701.

2. Name under which it will provide services if different than subdivision 1 above: Black Hills FiberCom.

3. Corporate structure:

- (a) Black Hills FiberCom, L.L.C., is a limited liability company, incorporated under the provisions of SDCL 34A-101, *et seq.* A copy of its Articles of Organization is attached and incorporated herein as Exhibit A.
- (b) Its principal office is located at 2045 Samco Road, P. O. Box 2115, Rapid City, SD 57709, and its registered agent is Roxann R. Basham, 625 Ninth Street, P. O. Box 1400, Rapid City, SD 57709.
- (c) Fifty-one percent (51%) of the membership units are held by Black Hills Fiber Systems, Inc., a South Dakota corporation, whose address is 625 Ninth Street, P. O. Box 1400, Rapid City, SD 57709; and the

remaining forty-nine percent (49%) held by GLA New Ventures, L.C., 425 Woods Mill Road South, Suite 300, Town & Country, MO 63017.

4. (Not applicable)
5. **Description of services:** Applicant intends to provide a broad range of communication services, consistent with the capabilities of a fiber optic network and the needs of its customers.
6. **Equipment:** Applicant intends to construct, own, and operate a fiber optic network for retail and wholesale telecommunication purposes.
7. **Geographic area:** Applicant intends to provide telecommunication services to customers within the geographic boundaries of the State of South Dakota, limited to U. S. West properties.
8. **Financial statements:** As a newly formed limited liability company, no annual reports or reports to stockholders have been prepared. A copy of the limited liability company's capital structure is attached as Exhibit B and as more fully set forth in the Articles of Organization is the capital structure concerning debt and equity available for the limited liability company. Applicant has previously filed with the South Dakota Public Utilities Commission a tariff, which is attached as Exhibit C.
9. **Regulatory matters:** All inquiries concerning Applicant shall be directed to Kyle D. White, 2045 Samco Road, P. O. Box 2115, Rapid City, SD 57709, telephone number 605-348-1701, facsimile number 605-342-1693, and e-mail address kdwhite+bhplgo@go.blackhillscorp.com.  
  
Applicant will handle customer billings and customer service matters through its principal place of business.
10. **Other states:** Not applicable.
11. **Marketing Services:** Applicant intends to market its services through direct contact with existing and new customers. Applicant will market services to customers who will benefit from the service capabilities of the fiber optic network.
12. **Cost Support:** At the present time, the Applicant does not offer noncompetitive or emerging competitive services. Applicant respectfully requests a waiver from this obligation until such time that noncompetitive or emerging competitive services are provided, at which time cost support for such tariffs shall be filed.

13. **Federal Tax Identification Number:** The tax identification number for Black Hills FiberCom, L.L.C., is 46-0451046.

14. **Complaint:** None, as the Applicant has not previously transacted business, nor is it providing service to any customers at this time.

15. **Waiver Request:** None.

16. **Additional Information:** Will make appropriate responses to any inquiries of the Commission.

Dated this 24<sup>th</sup> day of March, 1999.

BLACK HILLS FIBERCOM, INC., now doing  
business as BLACK HILLS FIBER SYSTEMS,  
INC.

By Royann P. Basham  
Its VP. Finance and Secretary/Treasurer

BLACK HILLS FIBERCOM, L.L.C.

By Royann P. Basham  
Its VP. Finance and Secretary/Treasurer

# State of South Dakota



## OFFICE OF THE SECRETARY OF STATE

### Certificate of Existence Limited Liability Company

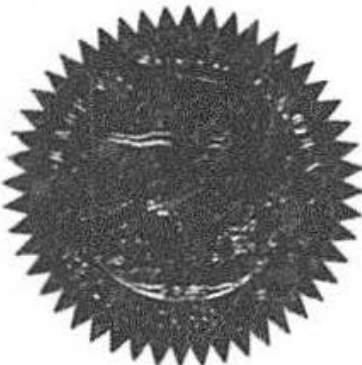
I, **JOYCE HAZELTINE**, Secretary of State of the State of South Dakota, do hereby certify that **BLACK HILLS FIBERCOM, L.L.C.** was duly organized under the laws of this state on **January 25, 1999** for a perpetual term of existence.

I, further certify that said Limited Liability Company has complied with the laws of this State relative to the formation of Limited Liability Companies of its kind and is now a regularly and properly organized and existing Limited Liability Company under the laws of this State and is in good standing, as shown by the records of this office. The annual report required by law has been filed with our office and articles of termination have not been filed. This certificate is not to be construed as an endorsement, recommendation or notice of approval of the Limited Liability Company's financial condition or business activities and practices. Such information is not available from this office.

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 March 8, 1999.

A handwritten signature in cursive script that reads "Joyce Hazeltine".

Joyce Hazeltine  
Secretary of State



EXHIBIT

A

# State of South Dakota



## OFFICE OF THE SECRETARY OF STATE

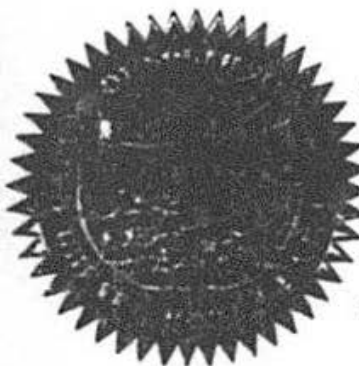
Department of State

United States of America, }

SECRETARY'S OFFICE

State of South Dakota }

This is to certify that the attached instrument of writing is a true, correct and examined copy of the Articles of Organization for BLACK HILLS FIBERCOM, L.L.C. filed in this office on January 25, 1999.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the state of South Dakota at the city of Pierre, the capital, this January 25, 1999.

*Joyce Hazeltine*  
\_\_\_\_\_  
Joyce Hazeltine, Secretary of State

\_\_\_\_\_  
Thomas G. Leckey, Deputy Secretary

Fees, \$ 12.00

# State of South Dakota



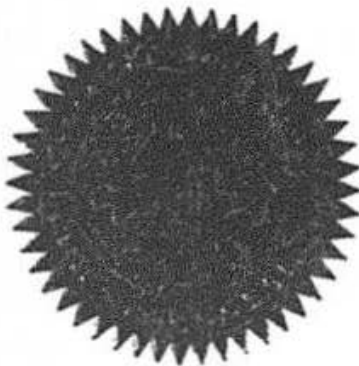
OFFICE OF THE SECRETARY OF STATE

CERTIFICATE OF ORGANIZATION

LIMITED LIABILITY COMPANY

I, JOYCE HAZELTINE, Secretary of State of the State of South Dakota, hereby certify that the Articles of Organization of BLACK HILLS FIBERCOM, L.L.C. duly signed and verified, pursuant to the provisions of the South Dakota Limited Liability Company Act, 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 issued this Certificate of Organization and attach hereto a duplicate of the Articles of Organization.



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 25, 1999.

A handwritten signature in cursive script that reads "Joyce Hazeltine".

JOYCE HAZELTINE  
Secretary of State



RECEIVED

JAN 25 1999

S.D. SEC. OF STATE

ARTICLES OF ORGANIZATION OF  
BLACK HILLS FIBERCOM, L.L.C.

*Jan 15 1999*  
*Jesse Hartzler*  
That we, the undersigned persons, who shall be members upon the issuance of a Certificate of Organization from the South Dakota Secretary of State, acting as organizers of a limited liability company under the South Dakota Limited Liability Company Act, do hereby adopt the following Articles of Organization for such limited liability company.

ARTICLE I.

The name of this limited liability company is Black Hills FiberCom, L.L.C.

ARTICLE II.

The initial designated office of this limited liability company is

2045 Samco Road, Rapid City, SD 57702.

ARTICLE III.

The address of the initial registered agent of this limited liability company is

625 Ninth Street  
P. O. Box 1400  
Rapid City, SD 57709

and the name of its initial registered agent at such address is

Roxann R. Basham

who by her signature below consents to her appointment as such registered agent.

ARTICLE IV.

The names and addresses of the organizers of this limited liability company are:

*d/102045*

Black Hills Fiber Systems, Inc.,  
f/k/a Black Hills Fibercom, Inc.,  
d/b/a Black Hills FiberCom  
625 Ninth Street  
P. O. Box 1400  
Rapid City, SD 57709

GLA New Ventures, LLC  
425 Woods Mill Road South, Suite 300  
Town & Country, MO 63017

ARTICLE V.

The period of duration of this limited liability company shall be perpetual or until the earlier dissolution of the limited liability company in accordance with the provisions of its operating agreement.

ARTICLE VI.

The Company shall be member managed by an Operating Committee, as more fully set forth in the Operating Agreement.

ARTICLE VII.

None of the members of the Company shall be liable for the debts and obligations under SDCL 47-34A-303(c).

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

18th IN WITNESS WHEREOF, we have hereunto set our hands on this day of January, 1999.

BLACK HILLS FIBER SYSTEMS, INC.,  
f/k/a BLACK HILLS FIBERCOM, INC.  
d/b/a BLACK HILLS FIBERCOM

By Roxann R. Basham  
Roxann R. Basham  
Its Vice President - Finance

GLA NEW VENTURES, LLC

By Douglas H. Hurl  
Its Manager & Not Secretary

STATE OF SOUTH DAKOTA

COUNTY OF PENNINGTON

On the 18th day of Jan, 1999, before me, the undersigned officer, personally appeared Roxann R. Basham, who acknowledged herself to be the Vice President - Finance of Black Hills Fiber Systems, Inc., formerly known as Black Hills Fibercom, Inc., a corporation, and that she, as such Vice President - Finance, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by herself as Vice President - Finance.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



John K. Nooney  
Notary Public  
MY COMM. EXPIRES  
7/12/2001


STATE OF SOUTH DAKOTA

COUNTY OF PENNINGTON

On the 18th day of January, 1999, before me, the undersigned officer, personally appeared David L. Howard, who acknowledged himself to be the Senior Vice President and Secretary of GLA New Ventures, LLC, a Missouri limited liability corporation, and that he, as such Senior Vice President and Secretary, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as Senior Vice President and Secretary.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



  
\_\_\_\_\_  
Notary Public  
MY COMM. EXPIRES  
7/12/2001

CONSENT OF REGISTERED AGENT

I, Roxann R. Basham, registered agent named in Article IV above, hereby consent to my appointment as registered agent as set forth above.

  
\_\_\_\_\_  
Roxann R. Basham

SECRETARY OF STATE  
STATE CAPITOL  
500 E. CAPITOL AVE.  
PIERRE, S.D. 57501  
(605)773-4845  
FAX (605)773-4550

FIRST ANNUAL REPORT  
OF A  
LIMITED LIABILITY COMPANY

RECEIVED  
JAN 19 1999  
S.D. SEC. OF STATE

1. The name of the Limited Liability Company is: Black Hills FiberCom, L.L.C.

RECEIVED

2. The state or country under whose law it is organized is: South Dakota

JAN 25 1999

3. The address of its registered office and the name and address of its registered agent for service of process in South Dakota is:

S.D. SEC. OF STATE

Roxann R. Basham

625 Ninth Street

Rapid City, SD 57701

4. The address of its principal office is: 2045 Samco Road

Rapid City, SD 57702

5. The names and business addresses of any managers:

6. The dollar amount of the total agreed contributions to the Limited Liability Company is \$ 4,100,000.00.

Date: 1/18/99

Roxann R. Basham  
Secretary / Treasurer

(Signature and Title)

\* FILING FEE:

AGREED CONTRIBUTION	FEE
Not in excess of \$50,000	\$ 90
\$50,001 to \$100,000	\$150
In excess of \$100,000	\$150 for first \$100,000 plus \$.50 for each additional \$1,000

The maximum amount charged may not exceed sixteen thousand dollars (\$16,000.).

llcar.doc

1/21/99

Receipt No: \_\_\_\_\_

File Number: DL002065

ART OF ORGANIZATION

For

BLACK HILLS FIBERCOM, L.L.C.

File at the request of:

MORRILL THOMAS NOONEY & BRAUN  
JOHN NOONEY  
PO BOX 8108  
RAPID CITY SD 57709

STATE OF SOUTH DAKOTA

OFFICE OF THE SECRETARY OF STATE

SS.

Filed in the office of Secretary of State on

Date January 25, 1999

*Joyce Hazeltine*  
Secretary of State

Fee Recieved \$2150.00

SOS CRP 491 10/93

**EXHIBIT B**

**FINANCIAL STATEMENT  
CAPITAL STRUCTURE**

Convertible Debt Agreement with Black Hills Fiber Systems, Inc.	\$40,000,000
Black Hills Fiber Systems, Inc. Equity	2,100,000
GLA New Ventures, LLC	<u>2,000,000</u>
Initial Total Capital	\$44,100,000

GENERAL TERMS AND CONDITIONS  
TELECOMMUNICATIONS SERVICE1.0 APPLICABILITY

This tariff contains the descriptions and regulations applicable to the furnishing of service or facilities for telecommunications services furnished by Black Hills FiberCom, Inc., which does business under the assumed name of Black Hills FiberCom. Principle business offices are currently at 2045 Samco Road, Rapid City, SD 57702. This tariff is on file with the South Dakota Public Utilities Commission (Commission). Copies may be inspected, during normal business hours, at the Company's principle place of business. Due to the early stage of this business, customers are advised to make an appointment prior to visiting the Black Hills FiberCom offices.

2.0 PURPOSE OF THE COMPANY

Black Hills FiberCom provides telecommunications services as described herein to residential, commercial, and governmental customers. Black Hills FiberCom is a switching, facilities-based provider of directly connected and resale telecommunications services (network and switching facilities are under construction and resale arrangements are being negotiated). Black Hills FiberCom intends to offer local and long-distance telephone, high-speed data and video, high-speed Internet access and distance learning services, as well as, cable television service. In addition, Black Hills FiberCom may lease customer specific equipment necessary to receive service from the network. Black Hills FiberCom intends to provide high quality services that meet or exceed industry reliability standards. 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.

3.0 AVAILABILITY

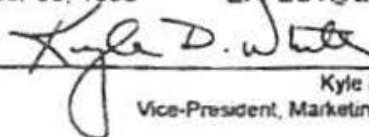
Black Hills FiberCom is authorized by the South Dakota Public Utilities Commission to offer local telecommunications services in those areas in South Dakota where US WEST Communications, Inc., is the incumbent local exchange carrier. A key element of the Black Hills FiberCom business plan is the construction of a switched fiber optic and hybrid fiber coaxial communications network to serve customers within the following communities:

Rapid City	Sturgis	Belle Fourche
Black Hawk	Whitewood	Deadwood
Piedmont	Spearfish	Lead

DATE FILED: September 30, 1998

EFFECTIVE DATE:

ISSUED BY:



Kyle D. White  
Vice-President, Marketing & Regulatory Affairs

EXHIBIT

C



PUBLIC UTILITIES COMMISSION OF SOUTH DAKOTA

BLACK HILLS FIBERCOM  
RAPID CITY, SOUTH DAKOTA

SECTION NO. 1  
ORIGINAL SHEET NO. 2

4.0 LIMITATIONS

- 4.1 Black Hills FiberCom reserves the right to discontinue service, or limit the use of service for 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 the tariff.
- 4.2 Black Hills FiberCom offers service to all customers equally and on a non-discriminatory basis. Service is offered subject to the availability of the facilities and services of Black Hills FiberCom.

5.0 LIABILITIES OF COMPANY

- 5.1 Black Hills FiberCom will endeavor to provide continuous service but does not guarantee uninterrupted service. Black Hills FiberCom will not be responsible for any loss or damage resulting from the interruption or disturbance of service for any cause other than gross negligence of Black Hills FiberCom. Black Hills FiberCom will not be liable for any loss of profits or other consequential damages resulting from the use of service or any interruption or disturbance of service.
- 5.2 Black Hills FiberCom assumes no liability for damages caused by interruption, delays, defects in the transmission of customer's telecommunications traffic due to acts of God, fire, war, civil disturbance, act of government, or due to any other causes beyond Black Hills FiberCom's control.
- 5.3 Black Hills FiberCom's liability for such damages, not caused by willful misconduct by Black Hills FiberCom or its agents, in no case will exceed an amount equivalent to the proportionate charge to the customer for the period during which such interruptions, delays, mistakes, or defect in transmission occurred.

6.0 INTERRUPTION OF SERVICE

- 6.1 It shall be the customer's obligation to notify Black Hills FiberCom of any interruption of service for credit. The customer should check to insure that any action or trouble within the customer's control or equipment does not cause the trouble.
- 6.3 Service outage due to such failure as caused by or occurs due to Black Hills FiberCom's control are limited to a credit for the outage as defined in Section 5.

DATE FILED: September 30, 1998

EFFECTIVE DATE:

ISSUED BY: \_\_\_\_\_

*Kyle D. White*

Kyle D. White  
Vice-President, Marketing & Regulatory Affairs

PUBLIC UTILITIES COMMISSION OF SOUTH DAKOTA

BLACK HILLS FIBERCOM  
RAPID CITY, SOUTH DAKOTA

SECTION NO. 1  
ORIGINAL SHEET NO. 3

7.0 DEPOSITS

Black Hills FiberCom does not require a deposit from its customers, but reserves the right to require such a deposit, not to exceed two months estimated, or if known, two month's historical charges for service, whenever the financial circumstances of the customer so warrants. Black Hills FiberCom will return any deposits required, plus the applicable 7% simple interest, after one year of consistent timely payments by the customer. Up to the full amount of deposit shall be applied to any charges unpaid after thirty days from the invoice date. Should a deposit be required of the customer, the customer may choose a paid-by-bank payment option in lieu of making a deposit.

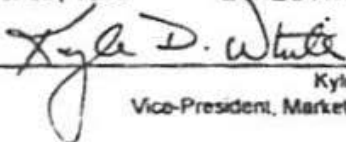
8.0 PAYMENT AND BILLING

- 8.1 Service is provided and billed on a monthly or annual basis. Usage charges are billed in arrears. Recurring fixed charges are billed monthly in advance.
- 8.2 All billings presented for payment by Black Hills FiberCom will show the type of service rendered, the related charges, and the total bill for such services.
- 8.3 Bills are payable and due upon receipt. A late charge calculated at a rate of one and one-half percent per month will be charged on any amount unpaid after thirty days from rendering.
- 8.4 A Non-Sufficient Funds Check Charge of \$30.00 will be added to the customer's current amount due, if a check for payment of services is returned for any reason, such as non-sufficient funds or closed account.
- 8.5 If Black Hills FiberCom service has been discontinued for nonpayment, the customer will be required to pay any unpaid balance due to Black Hills FiberCom before service is restored.
- 8.6 If a customer's service is disconnected for nonpayment of sum due to Black Hills FiberCom, and customer wishes to reconnect service, a one-time charge of \$50.00 for the re-establishment of service will be billed to the customer. Payment of the re-establishment charge and any outstanding amounts will be due in full prior to reconnection of service.

DATE FILED. September 30, 1998

EFFECTIVE DATE:

ISSUED BY



Kyle D. White

Vice-President, Marketing & Regulatory Affairs

PUBLIC UTILITIES COMMISSION OF SOUTH DAKOTA

BLACK HILLS FIBERCOM  
RAPID CITY, SOUTH DAKOTA

SECTION NO. 1  
ORIGINAL SHEET NO. 4

9.0 DISCONNECTION OF SERVICE BY CUSTOMER

During the disconnection process the customer is responsible for payment of any charges incurred during the relevant time period.

10.0 ADVANCE PAYMENTS

10.1 Black Hills FiberCom does not require an advance payment, but reserves the right to collect an amount not to exceed one month's estimated charges as an advance payment for service whenever the financial circumstances of the customer may warrant. When required, such advance payment shall be applied against the next month's charges and if necessary a new advance payment will be collected for the following month.

10.2 All "Disconnection of Service" requests by the customer are subject to the terms and conditions of the service contract between Black Hills FiberCom and the customer.

11.0 TAXES

Federal, State, and Local taxes are separate line items and are not included in Black Hills FiberCom's rates for service.

12.0 EXCESS CONSTRUCTION

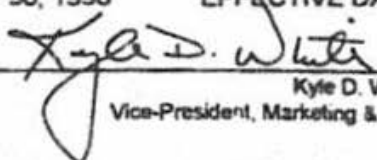
12.1 Black Hills FiberCom will provide services only where facilities exist and are capable of providing such services without construction of additional facilities or enhancement of existing facilities. If the customer requests service where facilities do not exist or require upgrading, customer will be notified of related construction charges. The customer may elect to order service and pay for the related construction charges, for which 100% will be due upon order.

12.2 Black Hills FiberCom may offer the customer terms to include such costs as part of the monthly payment.

DATE FILED: September 30, 1998

EFFECTIVE DATE:

ISSUED BY: \_\_\_\_\_



Kyle D. White

Vice-President, Marketing & Regulatory Affairs

PUBLIC UTILITIES COMMISSION OF SOUTH DAKOTA

BLACK HILLS FIBERCOM  
RAPID CITY, SOUTH DAKOTA

SECTION NO. 1  
ORIGINAL SHEET NO. 5

13.0 BUSINESS INQUIRIES AND COMPLAINTS

13.1 Business inquiries or complaints regarding service or billings may be made in writing or by phone to Black Hills FiberCom at:

Kyle D. White  
Vice President, Marketing and Regulatory Affairs  
P. O. Box 2115  
Rapid City, South Dakota 57709  
1-605-348-1701

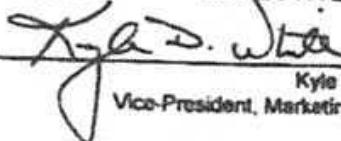
13.2 If the customer is dissatisfied with Black Hills FiberCom's response to a complaint or inquiry, they may file with the South Dakota Public Utilities Commission for resolution of the conflict. The South Dakota Public Utilities Commission can be reached at:

South Dakota Public Utilities Commission  
500 East Capitol  
Pierre, South Dakota 57501-5070  
1-605-773-3201

DATE FILED: September 30, 1998

EFFECTIVE DATE:

ISSUED BY:



Kyle D. White  
Vice-President, Marketing & Regulatory Affairs

12665

DATE March 24 1999

7-98  
014

\$ 250.00

DOLLARS

*John A. Williams*  
0-13

South Dakota Public Utilities Commission  
**WEEKLY FILINGS**  
For the Period of March 24, 1999 through March 31, 1999

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

**CONSUMER COMPLAINTS**

CT99-002 In the Matter of the Complaint filed by Randy Kieffer, Sturgis, South Dakota, against U S WEST Communications Regarding Poor Service.

The Complainant claims that he and his neighbors have poor telecommunications service. The Complainant states that "The service we are receiving from U S West is a joke and U S West needs to get serious about providing service." The Complainant seeks the following relief: "PUC should fine them \$4000 a day."

Staff Attorney: Camron Hoseck

Consumer Affairs: Leni Healy

Date Filed: 03/19/99

**TELECOMMUNICATIONS**

TC99-026 In the Matter of the Application to Transfer the Certificate of Authority from Black Hills Fibercom, Inc. to Black Hills FiberCom, L.L.C.

Black Hills Fibercom, Inc. has filed with the Public Utilities Commission an application to transfer its Certificate of Authority to Black Hills FiberCom, L.L.C. Black Hills Fibercom, Inc. was granted authority to provide interexchange telecommunications services statewide and local telecommunications services within U S WEST Communications service areas on August 5, 1998.

Staff Analyst: Harlan Best

Staff Attorney: Karen Cremer

Date Filed: 03/25/99

Intervention Deadline: 04/16/99

TC99-027 In the Matter of the Application of Concert Communications Sales LLC for a Certificate of Authority to Provide Telecommunications Services in South Dakota.

Concert Communications Sales LLC (CCS) has filed a request for a Certificate of Authority to operate as a reseller of intraLATA and interLATA interexchange telecommunications services throughout South Dakota. CCS intends to provide a full range of 1+ interexchange services and data transmission services, including, MTS, private line, WATS, post-paid calling card, prepaid calling card, toll free, ISDN and frame relay service products.

Staff Analyst: Michele Farris  
Staff Attorney: Camron Hoseck  
Date Filed: 03/29/99  
Intervention Deadline: 04/16/99

TC99-028 In the Matter of the Application of Nor Communications, Inc. for a Certificate of Authority to Provide Telecommunications Services in South Dakota.

Nor Communications Inc. has filed a request for a Certificate of Authority to operate as a reseller of intrastate telecommunications services throughout South Dakota. Nor Communications intends to provide a full range of 1+ interexchange services, including, MTS, WATS, and calling cards.

Staff Analyst: Michele Farris  
Staff Attorney: Camron Hoseck  
Date Filed: 03/30/99  
Intervention Deadline: 04/16/99

TC99-029 In the Matter of the Filing by Golden West Communications, Inc. for Approval of Boundary Change.

Vivian Telephone Co. d/b/a Golden West Communications received a request from a developer to change the Custer exchange boundary to bring all of the developer's territory into the Custer exchange. Presently part of the developer's territory is in the Hot Springs exchange served by Golden West Cooperative. Both the Cooperative board and Vivian's board have approved the boundary change.

Staff Analyst: Harlan Best  
Staff Attorney: Karen Cremer  
Date Filed: 03/30/99  
Intervention Deadline: NA

TC99-030 In the Matter of the FCC Order Establishing New Deadlines for  
Implementation of IntraLATA Dialing Parity by Local Exchange Carriers

The Federal Communications Commission (FCC) order states that no later than April 22, 1999, all Local Exchange Companies (LECs) must file intraLATA toll dialing parity plans with the state regulatory commission for each state in which the LEC provides telephone exchange service if a plan has not yet been filed with such state commission. Once a state commission has approved a plan, the LEC must implement its plan no later than 30 days after the date on which the plan is approved. If the state commission has not acted on the plan by June 22, 1999, the LEC must file the plan with the Common Carrier Bureau of the FCC. Pursuant to the FCC order, LECs shall file an intraLATA toll dialing plan by April 22, 1999; interested persons or entities may file comments on the plans no later than May 7, 1999; and LECs may file rebuttal comments no later than May 17, 1999.

Staff Analyst: Harlan Best  
Staff Attorney: Karen Cremer  
Docket Opened: 03/31/99  
Intervention Deadline: NA

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

IN THE MATTER OF THE APPLICATION TO )	ORDER GRANTING
TRANSFER THE CERTIFICATE OF )	TRANSFER OF
AUTHORITY FROM BLACK HILLS )	CERTIFICATE OF
FIBERCOM, INC. TO BLACK HILLS )	AUTHORITY
FIBERCOM, L.L.C. )	
)	TC99-026

On March 25, 1999, the Public Utilities Commission (Commission), in accordance with SDCL 49-31-3 and ARSD 20:10:24:02, 20:10:24:04.01, 20:10:32:03 and 20:10:32:08, received an application from Black Hills FiberCom, Inc. to transfer its certificate of authority to Black Hills FiberCom, L.L.C. Black Hills FiberCom, Inc. was granted authority to provide interexchange telecommunications services statewide and local telecommunications services within U S WEST Communications, Inc.'s service areas on August 5, 1998.

On April 1, 1999, the Commission electronically transmitted notice of the filing and the intervention deadline of April 16, 1999, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled April 26, 1999, meeting, the Commission considered Black Hills FiberCom, Inc.'s request for a transfer of its certificate of authority to Black Hills FiberCom, L.L.C. Commission Staff recommended granting the transfer of the certificate of authority, subject to rural safeguards.

The Commission finds that it has jurisdiction over this matter pursuant to Chapter 49-31, specifically 49-31-3 and 49-31-75 and ARSD 20:10:24:02, 20:10:24:03, 20:10:24:04.01, 20:10:32:03 and 20:10:32:08. The Commission finds that Black Hills FiberCom, L.L.C. has met the legal requirements established for the granting of a certificate of authority. Black Hills FiberCom, L.L.C. has, in accordance with SDCL 49-31-1, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota.

The Commission approves Black Hills FiberCom, Inc.'s application to transfer its certificate of authority to Black Hills FiberCom, L.L.C., subject to rural safeguards. The certificate of authority for Black Hills FiberCom, L.L.C. shall authorize it to offer local exchange services in those areas in South Dakota where U S WEST Communications, Inc., is the incumbent local exchange carrier. In the future, should Black Hills FiberCom, L.L.C. choose to provide local exchange services statewide, with respect to rural telephone companies, Black Hills FiberCom, L.L.C. will have to come before the Commission in another proceeding before being able to provide local service in that rural service area pursuant to 47 U.S.C. § 253(f) which allows the Commission to require a company that seeks to provide service in a rural service area to meet the requirements in 47 U.S.C. § 214(e)(1) for designation as an eligible telecommunications carrier. In addition, the granting of statewide certification will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f). It is therefore

ORDERED, that Black Hills FiberCom, Inc.'s application for a transfer of its certificate of authority to Black Hills FiberCom, L.L.C. to provide telecommunications services, including local exchange services, is granted; and it is

FURTHER ORDERED, that Black Hills FiberCom, L.L.C. shall file informational copies of tariff changes with the Commission as the changes occur; and it is

FURTHER ORDERED, that the Commission shall authorize Black Hills FiberCom, L.L.C. to offer its local services in those areas in South Dakota where U S WEST Communications, Inc., is the incumbent local exchange carrier.

Dated at Pierre, South Dakota, this 5<sup>th</sup> day of May, 1999.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: *Silvina Kaska*

Date: 5/6/99

(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

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## CERTIFICATE OF AUTHORITY

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

Authority was Granted April 26, 1999  
Docket No. TC99-026

*This is to certify that*

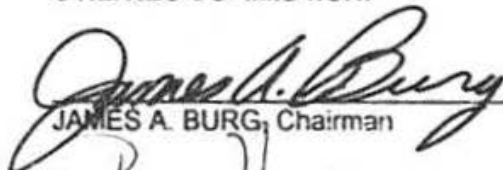
**BLACK HILLS FIBERCOM, L.L.C.**

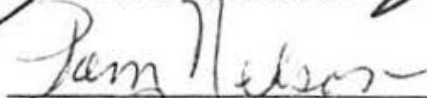
*is authorized to provide telecommunications services in South Dakota.*

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 5<sup>th</sup> day of May, 1999.

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION:

  
JAMES A. BURG, Chairman

  
PAM NELSON, Commissioner

  
LASKA SCHOENFELDER, Commissioner

