

TC99-101

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SEP 27 1999

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**



VIA FEDERAL EXPRESS

September 23, 1999

**William Bullard
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Avenue
Pierre, South Dakota 57501
Telephone # (605) 773-3201**

Superior Consultant Company, Inc.
15995 N. Barkers Landing
Suite 111
Houston, TX 77079

(281) 597-1300
(281) 597-1493 Fax

www.superiorconsultant.com

RE: Application for a Certificate of Operating Authority for Interexchange Service

Dear Mr. Bullard:

Enclosed please find the Application for a Certificate of Operating Authority to provide interexchange telephone service as a competitive carrier that we are filing on behalf of Avera Communication, L.L.C., a South Dakota Limited Liability Company already approved by your Commission as a competitive local exchange carrier on Docket No. TC99-083 on August 17, 1999. As technology consultants for Avera, we are assisting them in this process and will serve as the contact point with the Commission until such time as they have been approved and hire additional in house resources.

Should you have any questions regarding this application or require any further information for its processing, you may reach me at the following address and telephone number:

**Sev MacPete, Esq.
Senior Systems Consultant
Superior Consultant Company, Inc.
3203 Felton Street
San Diego, CA 92104-4708
619-280-3088**

Very truly yours,

Sev MacPete (ajb)
Sev MacPete

C:\DATA\CLEC DIC APPL COVER LTR.DOC

Corporate Offices

4000 Town Center, Suite 1100, Southfield, MI 48075
(248) 386-8300

TC 99-101
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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

avera communication, L.L.C.

**Application for a Certificate of Operating Authority
to provide Interexchange Service in South Dakota**

1. 20:10:24:02 (1) Legal Name and Address

Avera Communication, L.L.C.
610 West 23rd Street
P.O. Box 38
Yankton, South Dakota 57078
Telephone: 605-322-7050
Facsimile: 605-322-7054

2. 20:10:24:02 (2) Name under which service will be provided

Service will be provided under the name, Avera Communication, L.L.C.

3. 20:10:24:02 (3) Corporations

N/A

**4. 20:10:24:02 (4) Names of Members of Avera Communication, L.L.C., a South Dakota
Limited Liability Company**

Fredrick Slunecka
c/o Avera McKennan Hospital
800 East 21st Street
Sioux Falls, South Dakota 57105

Ron Jacobson
c/o Avera Queen of Peace Hospital
535 North Foster
Mitchell, South Dakota 57301

Dale J. Stein
c/o Avera St. Luke's Hospital
305 South State Street
Aberdeen, South Dakota 57401

Pam Rezac
c/o Avera Sacred Heart Hospital
501 Summit
Yankton, South Dakota 57078

AVERA COMMUNICATION, L.L.C.

**Application for a Certificate of Operating Authority
to provide Interexchange Service in South Dakota**

5. 20:10:24:02 (5) Services

Avera Communication, L.L.C. plans to offer competitive telecommunications services to the residential, commercial and business customers who reside in U.S. West's (USW) franchise territory. Avera Communication, L.L.C. plans to offer both facilities based services and resale of its underlying Interexchange Carrier (IXC) services to its customer base. Included in the offering will be interLATA, intrastate and interstate telecommunications services.

6. 20:10:24:02 (6) Means of Providing Services

Avera Communication, L.L.C. plans to offer its Interexchange services through a variety of different telecommunications elements. Initially, Avera Communication, L.L.C. will be offering resale services of its underlying carrier to its customer base. Avera Communication, L.L.C. anticipates that it will establish long term resale contracts with a number of IXCs allowing Avera Communication, L.L.C. to offer a variety of options to its customer base.

Avera Communication, L.L.C.'s business plan envisions establishing an intrastate telecommunications network utilizing a combination of unbundled network elements, leased competitive access provider (CAP) facilities, leased switching equipment, owned switching equipment, owned facilities, leased competitive local exchange carrier (CLEC) facilities and leased CLEC switching equipment. Avera Communication, L.L.C. will provide access, transport and termination of intrastate and interstate telecommunications services over its combined hybrid network for calls from and to its customer base. Avera Communication, L.L.C. intends to have points of presence (POP) at the IXC access tandem(s) for interconnecting telecommunications services.

7. 20:10:24:02 (7) Geographic Area

Avera Communication, L.L.C. plans to offer competitive intrastate, interstate and interLATA telecommunications services to the residential, commercial and business customers who reside in the local exchange territory of Avera Communication, L.L.C. already approved by the Commission on August 17, 1999 in Docket No. TC99-083 per the previous map provided.

avera communication, l.l.c.

**Application for a Certificate of Operating Authority
to provide Interexchange Service in South Dakota**

8. 20:10:24:02 (8) Financial Statements

A copy of financial information filed with the Secretary of State of South Dakota when Avera Communication, L.L.C. was organized is attached at the end of this document as ADDENDUM A. Additionally, Avera Communication, L.L.C. has on file with the Commission a \$25,000 bond filed pursuant to Commission request in Docket No. TC99-083 under which Avera Communication, L.L.C. was granted a Certificate of Authority to Conduct Business as a Local Exchange Telecommunications Company within the State of South Dakota.

9. 20:10:24:02 (9) Registered Representative

The Registered Agent for Avera Communication, L.L.C. for all matters is:
Don Blerle, Esq.
Avera Communication, L.L.C.
610 West 23rd Street
Yankton, South Dakota 57078

10. 20:10:24:02 (10) Other States of Operation

Avera Communication, L.L.C. is not currently licensed to provide telecommunications services in any other state.

AVERA COMMUNICATION, L.L.C.

**Application for a Certificate of Operating Authority
to provide Interexchange Service in South Dakota**

11. 20:10:24:02 (11) Marketing

Avera Communication, L.L.C. is in the process of developing its marketing plan for its potential customer base. Avera Communication, L.L.C. plans to utilize a combination of direct person to person sales, canvassing of neighborhoods (door to door sales), and direct marketing, including television and radio commercials, direct mail, bill board advertising, and newspaper advertising. Avera Communication, L.L.C. will also utilize telemarketing to promote its services. Avera Communication, L.L.C. will adhere to any and all Commission and/or FCC guidelines pertaining to telemarketing.

Avera Communication, L.L.C. will target vertically integrated companies with presence through out South Dakota as prime candidates for bundling of services that it envisions offering. Avera Communication, L.L.C. also anticipates marketing its services to the employees of its business customers, as well as other residential and business customers. Avera Communication, L.L.C.'s target market is limited to the current franchise territory of USW within South Dakota.

Avera Communication, L.L.C. will be offering bundled services at attractive rates to its residential and business customers. Avera Communication, L.L.C. will customize its offerings by using special customer arrangements (SCAs) to meet the needs of its customers. Avera Communication, L.L.C. will offer SCAs on a non-discriminatory basis to customers who qualify based on the specific terms and conditions of the SCA. Avera Communication, L.L.C. will be developing many innovative marketing and sales concepts for telecommunications sales. Avera Communication, L.L.C. will be hiring a professional telecommunications marketing consultant(s) to assist it in its marketing campaign.

Avera Communication, L.L.C. will utilize certain sections on its bill to inform its current customer of additional services as they become available. Additionally, Avera Communication, L.L.C. will insert informational material in its billing envelopes.

At this time, Avera Communication, L.L.C. does not plan to utilize multi-level marketing type campaigns.

Advertising, direct mail, and supporting sales and marketing materia's are currently being developed and are not available for inclusion with this application.

avera communication, l.l.c.

**Application for a Certificate of Operating Authority
to provide Interexchange Service in South Dakota**

12. 20:10:24:02 (12) Cost studies

Because Avera Communication, L.L.C. is a start up company, it does not have historical cost data to provide the Commission with cost support of its proposed rates. However, in its tariff, to be filed prior to commencement of operations, Avera Communication, L.L.C. will supply price list information. It is expected that Avera Communication, L.L.C.'s pricing structure will be in line with the current costs set by the Commission for USW. Avera Communication, L.L.C. foresees that its network, because it is state of the art and based on the most modern efficient utilization of resources, will allow Avera Communication, L.L.C. to competitively price its services so it can attract new customers.

13. 20:10:24:02 (13) Federal Tax Identification Number

Avera Communication, L.L.C. has not as yet received its Federal Tax Identification Number.

14. 20:10:24:02 (14) Complaints in other states

Avera Communication, L.L.C. does not currently operate in any other states.

AVERA COMMUNICATION, L.L.C.

**Application for a Certificate of Operating Authority
to provide Interexchange Service in South Dakota**

15. 20:10:24:02 (15) Waiver Requests

1. Avera Communication, L.L.C. respectfully requests that the requirement to file a tariff with this application be waived until the completion of interconnection negotiations with USWest result in the filing of an Interconnection Agreement that is approved by the Commission.
2. Avera Communication, L.L.C. respectfully requests that the requirement to file a map of its territory (20:10:24:02 (7) above) be waived as Avera Communication, L.L.C. filed a map in Docket No. TC99-083 for Interexchange Authority which the Commission granted on August 17, 1999. The territory for Interexchange authority will be exactly congruous with the territory already approved for Local Exchange Service.
3. Avera Communication, L.L.C. respectfully requests that the requirement to file certain financial statements required in 20:10:24:02 (8) above be waived, as Avera Communication, L.L.C. is a start-up company with no historical financial data. Additionally, Avera Communication, L.L.C. has on file with the Commission a \$25,000 bond that was obtained as required by the Commission in Docket No. TC99-083 under which Avera Communication, L.L.C. was granted a Certificate of Authority to Conduct Business as a Local Exchange Carrier within the State of South Dakota.
4. Avera Communication, L.L.C. respectfully requests a waiver of the requirement to provide cost support for our proposed rates, as required in 20:10:24:02 (12) above. As of this time our rates have not been developed pending the completion of negotiations with USWest of an Interconnection Agreement. As a start up company, with no historical cost data, Avera Communication, L.L.C. must rely on this Agreement for data to develop our rates and services.

16. 20:10:24:02 (16) Other information requested by the Commission

N/A



South Dakota Public Utilities Commission



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

VIA FAX: 281-597-1493

September 27, 1999

Mr. Sev MacPete
Superior Consultant Company, Inc.
15995 North Barkers Landing, Suite 111
Houston, TX 77079

RE: APPLICATION FOR CERTIFICATE OF AUTHORITY
Avera Communication, L.L.C.

Dear Mr. MacPete:

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

SDCL 49-31-3. Each telecommunications company that plans to offer or provide interexchange telecommunications service shall file an application for a certificate of authority with the commission pursuant to this section. Telecommunications companies seeking to provide any local exchange service shall submit an application for certification by the commission pursuant to §§ 49-31-1 through 49-31-89. Applications required by this section shall be filed by the company no less than sixty days before its initiation of telecommunications service in this state. The commission shall have the exclusive authority to grant a certificate of authority. Each telecommunications company shall submit a two hundred fifty dollar application fee with its application which shall be deposited into the gross receipts tax fund established pursuant to § 49-1A-2.

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

Thank you for your cooperation in this matter.

Sincerely,

Delaine Kolbo
Legal Secretary

Capitol Office
Telephone (605)773-3201
FAX (605)773-3009

Transportation/
Warehouse Division
Telephone (605)773-5290
FAX (605)773-3225

Consumer Hotline
1-800-332-1782

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

Internet Website
www.puc.state.sd.us/puc/

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South Dakota Public Utilities Commission



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

VIA FAX: 281-597-1493

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September 27, 1999

OCT 06 1999

Mr. Sev MacPete
Superior Consultant Company, Inc.
15905 North Barkers Landing, Suite 111
Houston, TX 77079

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

RE: APPLICATION FOR CERTIFICATE OF AUTHORITY
Avera Communication, L.L.C.

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

Thank you for your cooperation in this matter.

Sincerely,

Delaine Kolbo
Legal Secretary

Capital Office
Telephone (605)775-3200
FAX (605)775-3000

Transportation
Warehouse Building
Telephone (605)775-6200
FAX (605)775-3220

Customer Service
1-800-323-1703

TTY Through
Relay North Dakota
1-800-877-4113

Internet Website
www.pu.state.sd.us

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Chairman
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Delaine Kolbo
Charles Lund
Tony Patten
Gregory A. Patten
Kath Patten
Richard Allen White

PRESENTATION SISTERS CENTRAL
ADMINISTRATION SERVICES
1500 NORTH SECOND STREET
ABERDEEN, SOUTH DAKOTA 57401

DACOTA BANK
ABERDEEN

308 S. MAIN ST.
P.O. BOX 1210
ABERDEEN, SD 57402-1210
(605) 225-5611
10-05-99

39998

78-17/914

DATE _____

PAY THE SUM OF \$250dols 00cts DOLLARS \$ 250.00

TO
THE
ORDER
OF

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

VOID AFTER 90 DAYS
TWO SIGNATURES REQUIRED OVER \$1,000.00

Linda Knage

⑈039998⑈ ⑆091400172⑆ 33 436 7⑈

PRESENTATION SISTERS CENTRAL
ADMINISTRATION SERVICES
ABERDEEN, SD 57401

DETACH AND RETAIN THIS STATEMENT
THE ATTACHED CHECK IS IN PAYMENT OF ITEMS DESCRIBED BELOW
IF NOT CORRECT PLEASE NOTIFY US PROMPTLY. NO RECEIPT DESIRED

DELUXE - FORM WVC-3 V-7

10-5-99 APPLICATION FEE

\$250.00

TC 99-101

RECEIVED

OCT 06 1999

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of September 30, 1999 through October 6, 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

CT99-042 In the Matter of the Complaint filed by Paula Muchow, Rapid City, South Dakota, against Creative Opportunity Regarding Unauthorized Billing for Services.

The Complainant claims that service for her residence was switched without authorization. The Complainant seeks to have all charges removed from her account and payment of the \$1000 damage claim allowed by law.

Staff Analyst: Leni Healy
Staff Attorney: Camron Hoseck
Date Filed: 10/04/99
Intervention Deadline: NA

CT99-043 In the Matter of the Complaint filed by Kevin and Gayle Suing, Sioux Falls, South Dakota, against AT&T Communications of the Midwest, Inc. Regarding Unauthorized Billing for Services.

The Complainants claim that they were billed by AT&T for unauthorized services. The Complainants seek to have all charges removed from their account and that fines and penalties be assessed.

Staff Analyst: Leni Healy
Staff Attorney: Karen Cremer
Dated Filed: 10/04/99
Intervention Deadline: NA

TELECOMMUNICATIONS

TC99-100 In the Matter of the Application of New Edge Network, Inc. d/b/a New Edge Networks for a Certificate of Authority to Provide Telecommunications Services, Including Local Exchange Services, in South Dakota.

New Edge Network, Inc. (New Edge) seeks a Certificate of Authority to provide facilities-based and resold local exchange and interexchange telecommunication services in South Dakota. New Edge intends to provide services in U S West territories.

Staff Analyst: Keith Senger
Staff Attorney: Karen Cremer
Date Filed: 09/30/99
Intervention Date: 10/22/99

TC99-101 In the Matter of the Application of Avera Communication, L.L.C. for a Certificate of Authority to Provide Telecommunications Services in South Dakota.

Avera Communication, L.L.C. intends to provide resale and facilities-based interexchange services. Avera Communication plans to offer its services to residential, commercial and business customers.

Staff Analyst: Keith Senger
Staff Attorney: Karen Cremer
Date Filed: 10/06/99
Intervention Date: 10/22/99

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You may subscribe or unsubscribe to the PUC mailing lists at <http://www.state.sd.us/puc/>**

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

**IN THE MATTER OF THE APPLICATION OF)
AVERA COMMUNICATION, L.L.C. FOR A)
CERTIFICATE OF AUTHORITY TO PROVIDE)
TELECOMMUNICATIONS SERVICES IN)
SOUTH DAKOTA)**

**ORDER GRANTING
CERTIFICATE OF
AUTHORITY**

TC99-101

On October 6, 1999, the Public Utilities Commission (Commission), in accordance with SDCL 49-31-3 and ARSD 20:10:24:02, received an application for a certificate of authority from Avera Communication, L.L.C. (Avera).

Avera proposes to offer facilities based and resold interexchange services to residential, commercial and business customers in South Dakota. The Commission has classified long distance service as fully competitive.

On October 7, 1999, the Commission electronically transmitted notice of the filing and the intervention deadline of October 22, 1999, to interested individuals and entities. No petitions to intervene or comments were filed and at its November 1, 1999, meeting, the Commission considered Avera's request for a certificate of authority. Commission Staff recommended granting a certificate of authority with bond requirements. Commission Staff further recommended a waiver of ARSD 20:10:24:02(8) and (15). The \$25,000 bond filed in TC99-083 also satisfies the bond requirement in this docket.

The Commission finds that it has jurisdiction over this matter pursuant to Chapter 49-31, specifically 49-31-3 and ARSD 20:10:24:02 and 20:10:24:03. The Commission finds that Avera has met the legal requirements established for the granting of a certificate of authority. Avera has, in accordance with SDCL 49-31-3, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota. Further, the Commission finds that there is good cause to waive ARSD 20:10:24:02(8) and (15). Avera filed a \$25,000 bond in TC99-083, which the Commission finds will satisfy the requirement for a bond in this docket. The Commission approves Avera's application for a certificate of authority. As the Commission's final decision in this matter, it is therefore

ORDERED, that Avera's application for a certificate of authority is hereby granted, effective December 6, 1999. It is

FURTHER ORDERED, that the Commission finds good cause to waive ARSD 20:10:24:02(8) and (15). It is

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

Dated at Pierre, South Dakota, this 4th day of November, 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 first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: *Aldair Kaelo*

Date: 11/4/99

(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

CERTIFICATE OF AUTHORITY

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

Authority was Granted November 1, 1999, effective December 6, 1999
Docket No. TC99-101

This is to certify that

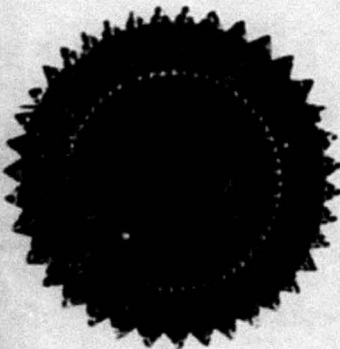
avera communication, l.l.c.

is authorized to provide telecommunications services in South Dakota.

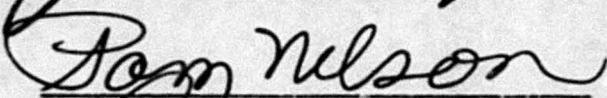
This certificate is issued in accordance with SDCI. 49-31-3 and ARSD 20:10.24.02, and is subject to all of the conditions and limitations contained in the rules and statutes governing its conduct of offering telecommunications services.

Dated at Pierre, South Dakota, this 4th day of November, 1999.

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION:




JAMES A. BURG, Chairman


PAM NELSON, Commissioner


JASKA SCHOENFELDER, Commissioner