

In the Matter of \_\_\_\_\_  
IN THE MATTER OF THE REQUEST OF \_\_\_\_\_  
THREE RIVER TELCO FOR \_\_\_\_\_  
CERTIFICATION REGARDING ITS USE \_\_\_\_\_  
OF FEDERAL UNIVERSAL SERVICE \_\_\_\_\_  
SUPPORT \_\_\_\_\_

**Public Utilities Commission of the State of South Dakota**

| DATE    | MEMORANDA                     |
|---------|-------------------------------|
| 9/11/01 | Filed and Docketed;           |
| 9/13/01 | Weekly Filing;                |
| 9/25/01 | Order Granting Certification; |
| 9/25/01 | Docket Closed.                |
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SEP 14 2001

BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE REQUEST ) DOCKET NO. \_\_\_\_\_
OF THREE RIVER TELCO FOR )
CERTIFICATION REGARDING ITS )
USE OF FEDERAL UNIVERSAL )
SERVICE SUPPORT. )

REQUEST FOR CERTIFICATION

Three River Telco (the "Company"), by and through its attorney, hereby submits a Request for Certification to the South Dakota Public Utilities Commission ("Commission") seeking certification from the Commission pursuant to 47 C.F.R. § 54.314. In support of this Request, the Company offers the following:

1. On May 23, 2001, the Federal Communications Commission (FCC) released an Order relative to the federal universal service support mechanism for rural carriers.1 This Order (hereafter referenced as the "Fourteenth Report and Order"), in part, codifies at 47 C.F.R. § 54.314, a requirement for States to provide a certification regarding federal universal service support that is received by rural incumbent local exchange carriers and/or other eligible telecommunications carriers providing service in rural service areas. Pursuant to such rule, states that desire rural carriers within their jurisdiction to receive future federal universal service support must file an annual certification with the FCC and the Universal Service Administrative Company ("USAC") stating that federal high cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. This certification requirement applies to various categories of federal universal service support, including support provided pursuant to 47 C.F.R. §§ 54.301,

1 CC Docket No. 96-45, CC Docket No. 00-256, Fourteenth Report and Order, Twenty Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256. FCC 01-157 Released May 23, 2001

54.305, and/or 54.307, and/or 47 C.F.R. Part 36, Subpart F (high-cost loop support, local switching support, safety net additive support, and safety valve support). Support provided under these FCC rule provisions will only in the future be made available if the State Commission files the requisite certification pursuant to § 54.314.

2. The certification required for rural carriers to receive federal universal service support for all four quarters during calendar year 2002 is currently due to be filed with the FCC and USAC on or before October 1, 2001. The certification may be presented to these entities in the form of a letter from the State Commission. The letter must identify which carriers in the State are eligible to receive federal support during the 12-month period and must certify that the carriers listed will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

3. The Company is a rural telephone company that has previously been designated by this Commission as an eligible telecommunications carrier. The Company provides local exchange telephone services, including all of the essential services that are included in the federal definition of universal service, to approximately eight (8) access lines within its established rural service area in South Dakota.

4. This Commission has limited regulatory oversight over the Company and its provisioning of local exchange services. Under SDCL § 49-31-5.1, the local exchange service rates charged by telecommunications cooperatives, municipal telephone systems, and independent telephone companies serving less than fifty thousand local exchange subscribers are not subject to the Commission's ratemaking authority. In cases where State Commissions have limited regulatory authority over rural carriers, the FCC has indicated that these carriers should themselves initiate the certification process by presenting a plan to ensure compliance with the requirement in 47 U.S.C. § 254(e) that universal service support will only be used for the

provision, maintenance, and upgrading of facilities and services for which the support is intended. Based on this filed plan, it is anticipated that the State Commission may make the appropriate certification to the FCC.<sup>2</sup>

5. The purpose of this filing is to provide information constituting the Company's plan for the use of its federal universal service support and to otherwise verify that the Company will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. § 254.

6. In the process of determining whether federal universal service support is used in a manner consistent with the Federal Communications Act, the "universal service principles" established in Section 254(b) are instructive. That Section states that the FCC shall base "policies for the preservation and advancement of universal service" on certain, specifically identified principles:

(1) Quality services should be available at just, reasonable, and affordable rates.

(2) Access to advanced telecommunications and information services should be provided in all regions of the Nation.

(3) Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas. . . .

(6) Elementary and secondary schools and classrooms, health care providers, and libraries should have access to [certain] advanced telecommunications services. . . .

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<sup>2</sup> Fourteenth Report and Order, ¶ 188.

7. The FCC has declined to dictate specifically how the states should ensure that carriers are using federal universal service support consistent with the federal law, but has offered examples of how the support can be used to appropriately further universal service goals.

The FCC has stated:

[A] state could [use the federal support to] adjust intrastate rates, or otherwise direct carriers to use the federal support to replace implicit intrastate universal service support to high cost rural areas . . . .

A state could also require carriers to use the federal support to upgrade facilities in rural areas to ensure that services provided in those areas are reasonably comparable to services provided in urban areas of the state.<sup>3</sup>

8. The FCC provided the above examples as illustrative and not exhaustive examples of how support can be used consistent with Section 254(e). Other uses are appropriate provided the State Commission believes they are consistent with the federal universal service principles contained in Section 254.

9. The Company, as a designated eligible telecommunications carrier, has received federal universal service support in the past and expects to receive support during calendar year 2002. As of this time, specific support amounts the Company should receive in 2002 have not yet been identified by USAC. The Company, however, offers the following estimates concerning the support it expects to receive<sup>4</sup>:

|   |                   |
|---|-------------------|
| High-Cost Loop Support                  | \$ <u>345,168</u> |
| Local Switching Support (DEM Weighting) | \$ <u>215,628</u> |
| Safety Net Additive Support             | \$ <u>N/A</u>     |
| Safety Valve Support                    | \$ <u>N/A</u>     |

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<sup>3</sup> Ninth Report and Order and Eighteenth Order on Reconsideration in CC Docket No. 96-45 (In the Matter of the Federal-State Joint Board on Universal Service), FCC 99-306, ¶ 96, November 2, 1999.

<sup>4</sup> It should be noted that Long Term Support amounts are not referenced because the FCC has indicated that it will deal with certification under 47 USC Section 254(e) for these amounts. See Fourteenth Report and Order footnote number 446.

10. For calendar year 2002, the Company intends to make the following network facility and equipment investments: Exchange plant facility and equipment improvements, including fiber and electronics for the provisioning of DLCs (digital loop carrier) to rural areas.

11. In providing local exchange telecommunications services, the Company will also incur other costs. In 2002, these costs will include: Plant and equipment maintenance expenses, other expenses associated with facility and equipment upgrades, general and administrative expenses and other typical operating expenses.

12. The Company estimates that the total costs described above relating to its planned network facility and equipment investments and other expenses to be incurred in providing local exchange telecommunications services to its customers in both Nebraska and South Dakota will exceed \$1,165,000.

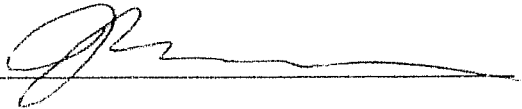
13. Consistent with the universal service principles set forth in the federal law and also the recent FCC orders referenced herein, the Company will use federal universal service amounts received in 2002 (estimated in paragraph 9 herein) to offset a portion of these total costs. This use of federal universal service support will enable the Company to: (1) maintain rates for its local exchange services that are affordable and reasonably comparable to rates being charged for the same services in urban areas; and (2) to upgrade its telecommunications facilities and equipment as necessary to meet evolving service requirements and maintain high quality service. The use of federal universal service support for these purposes is clearly consistent with the federal universal service provisions.

14. Based on all of the foregoing information and also the Affidavit of Thomas J Courtney attached as Exhibit A, the Company requests that this Commission issue an appropriate certification to the FCC and USAC indicating that the Company is in compliance with 47 U.S.C. § 254(e) and should receive all federal universal service support determined for distribution to

the Company in 2002. In order to ensure that this certification is issued to the FCC prior to October 1, 2001, the Company would further ask the Commission to expedite the process that is initiated based on this filing.

Dated this 7<sup>th</sup> day of September 2001.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by a long, horizontal, wavy line that tapers to the right.

*(signed by corporate attorney)*

AFFIDAVIT

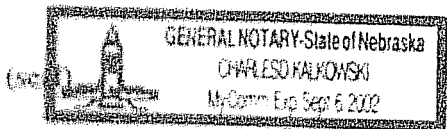
As an authorized corporate officer of the Company, I, THOMAS J. COURTNEY hereby affirm familiarity with and an understanding of the requirements of the Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 with respect to the receipt of any federal universal service funds received as high-cost loop support, local switching support, safety net additive support, and/or safety valve support and hereby affirm that any such support amounts received by the Company will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended consistent with 47 U.S.C. § 254(c).

Thomas J. Courtney PRES.  
(signature of authorized officer)

STATE OF Nebr )  
 ) ss.  
COUNTY OF Boyd )

Subscribed and sworn to before me, a Notary Public in and for said county and state, on this 12<sup>th</sup> day of Sept 2001.

Charles D. Kalkowski  
Notary Public  
My Commission Expires: 9-6-2002





TC01-148



Three River Telco  
P O Box 66  
Lynch, NE 68746

Voice: (402) 569-2666  
Fax: (402) 569-4455

Date: 9-11-01

To: Debra Elsson  
Addressee's Name & Location

From: Neil Classen @ Three River Telco  
Sender's Name & Location

Number of Pages: 8  
Including this page

Subject: State Certification regarding  
USF support

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BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE REQUEST ) DOCKET NO. \_\_\_\_\_
OF THREE RIVER TELCO FOR )
CERTIFICATION REGARDING ITS )
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SERVICE SUPPORT. )

REQUEST FOR CERTIFICATION

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1. On May 23, 2001, the Federal Communications Commission (FCC) released an Order relative to the federal universal service support mechanism for rural carriers. This Order (hereafter referenced as the "Fourteenth Report and Order"), in part, codifies at 47 C.F.R. § 54.314, a requirement for States to provide a certification regarding federal universal service support that is received by rural incumbent local exchange carriers and/or other eligible telecommunications carriers providing service in rural service areas. Pursuant to such rule, states that desire rural carriers within their jurisdiction to receive future federal universal service support must file an annual certification with the FCC and the Universal Service Administrative Company ("USAC") stating that federal high cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. This certification requirement applies to various categories of federal universal service support, including support provided pursuant to 47 C.F.R. §§ 54.301,

1 CC Docket No. 96-45, CC Docket No. 00-256, Fourteenth Report and Order, Twenty Second Order on Reconsideration and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, FCC 01-157, Released May 23, 2001.

54.305, and/or 54.307, and/or 47 C.F.R. Part 36, Subpart F (high-cost loop support, local switching support, safety net additive support, and safety valve support). Support provided under these FCC rule provisions will only in the future be made available if the State Commission files the requisite certification pursuant to § 54.314.

2. The certification required for rural carriers to receive federal universal service support for all four quarters during calendar year 2002 is currently due to be filed with the FCC and USAC on or before October 1, 2001. The certification may be presented to these entities in the form of a letter from the State Commission. The letter must identify which carriers in the State are eligible to receive federal support during the 12-month period and must certify that the carriers listed will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

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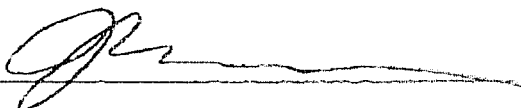
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14. Based on all of the foregoing information and also the Affidavit of [company officer] attached as Exhibit A, the Company requests that this Commission issue an appropriate certification to the FCC and USAC indicating that the Company is in compliance with 47 U.S.C. § 254(e) and should receive all federal universal service support determined for distribution to

the Company in 2002. In order to ensure that this certification is issued to the FCC prior to October 1, 2001, the Company would further ask the Commission to expedite the process that is initiated based on this filing.

Dated this 7<sup>th</sup> day of September 2001.

Respectfully submitted,

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by a long, horizontal, wavy line that tapers to the right.

*(signed by corporate attorney)*

AFFIDAVIT

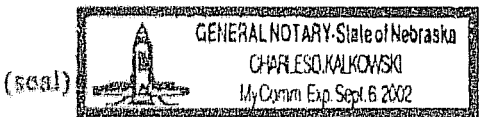
As an authorized corporate officer of the Company, I, [company officer] hereby affirm familiarity with and an understanding of the requirements of the Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 with respect to the receipt of any federal universal service funds received as high-cost loop support, local switching support, safety net additive support, and/or safety valve support and hereby affirm that any such support amounts received by the Company will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended consistent with 47 U.S.C. § 254(e).

Thomas J. Courtney  
(signature of authorized officer)

STATE OF Nebr )  
 ) ss.  
COUNTY OF Boyd )

Subscribed and sworn to before me, a Notary Public in and for said county and state, on this 11 day of Sept, 2001.

Charles D. Kalkowski  
Notary Public  
My Commission Expires: 9-16-2002





South Dakota Public Utilities Commission  
WEEKLY FILINGS  
For the Period of September 6, 2001 through September 12, 2001

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 AFFAIRS**

**CT01-039** In the Matter of the Complaint filed by Denise Haerter, Sioux Falls, South Dakota, against Midcontinent Communications, Inc. and Qwest Corporation Regarding Unauthorized Switching of Services.

Complainant alleges that she had no instate or out of state long distance service between July 20, 2001 and August 27, 2001, because her service was switched without her consent. The complainant wants an answer to why this was done and which company is responsible. The complainant is seeking a letter of apology from the company responsible and a check for \$1000.00 for the violation.

Staff Analyst: Charlene Lund  
Staff Attorney: Karen E. Cremer  
Date Docketed: 09/07/01  
Intervention Deadline: N/A

**CN01-002** In the Matter of the Complaint filed by Veda J. Boxwell, Sioux Falls, South Dakota, against MidAmerican Energy Company Regarding Refusal to Accept a Reasonable Payment Plan and Disconnection of Services.

Complainant alleges that the company refuses to set a reasonable payment plan and threatens to disconnect services. Complainant requests the company to continue services at 1000 N. Minnesota, Sioux Falls, SD until the issue is resolved; to negotiate a payment plan that she can keep; separate the two bills; and to set a hearing on the matter immediately.

Staff Analyst: Charlene Lund  
Staff Attorney: Karen E. Cremer  
Date Docketed: 09/12/01  
Intervention Deadline: N/A

**TELECOMMUNICATIONS**

**TC01-146** In the Matter of the Filing for Approval of a Reciprocal Transport and Termination Agreement and Type 2 Wireless Agreement between Brookings Municipal Utilities d.b.a Swiftel Communications and Beresford Municipal Telephone Company.

On September 10, 2001, the Commission received a request for approval of a Reciprocal Transport and Termination Agreement and Type 2 Wireless Agreement between Brookings Municipal Utilities d.b.a Swiftel Communications (Swiftel) and Beresford Municipal Telephone Company (Beresford). According to the Agreement, the parties agree to establish Type 2 Interconnection arrangements to one another allowing for the transport and termination of wireline to wireless and wireless to wireline traffic over each other's network. The parties also agree that Beresford will provide tandem and transport arrangements to interconnect Swiftel with other carriers. Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than October 1, 2001. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier  
Date Docketed: 09/10/01  
Initial Comments Due: 10/01/01

**TC01-147** In the Matter of the Request of Great Plains Communications, Inc. for Certification Regarding its Use of Federal Universal Service Support.

**TRT** THREE RIVER TELCO  
Your Telecommunications Leader

RECEIVED

SEP 14 2001

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Neil K. Classen  
Manager  
PO Box 66  
Lynch, NE 68746

Dear Debra,

Please find enclosed the original copy of our request for certification. I believe everything is in order. If it isn't, please give me a call

Thank-you so much for your assistance in this matter.

Sincerely,

  
Neil Classen

Phone  
(402) 569-2666  
Fax  
(402) 569-4455  
Email  
info@threeriver.net

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

|                                       |                |
|---------------------------------------|----------------|
| IN THE MATTER OF THE REQUEST OF )     | ORDER GRANTING |
| THREE RIVER TELCO FOR CERTIFICATION ) | CERTIFICATION  |
| REGARDING ITS USE OF FEDERAL )        |                |
| UNIVERSAL SERVICE SUPPORT )           | TC01-148       |

On May 23, 2001, the Federal Communications Commission (FCC) released an Order concerning the federal universal service support mechanism for rural carriers.<sup>1</sup> This Order (hereafter referenced as the "Fourteenth Report and Order"), in part, codifies at 47 § C.F.R. 54.314, a requirement for States to provide a certification regarding federal universal service support that is received by rural incumbent local exchange carriers and/or eligible telecommunications carriers providing service in rural service areas. Pursuant to such rule, a state that desires rural carriers within its jurisdiction to receive future federal universal service support must file an annual certification with the FCC and the Universal Service Administrative Company (USAC) stating that federal high cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. This certification requirement applies to various categories of federal universal service support, including support provided pursuant to 47 C.F.R. §§ 54.301, 54.305, and/or 54.307, and/or 47 C.F.R. Part 36, Subpart F (high-cost loop support, local switching support, safety net additive support, and safety valve support). Support provided under these FCC rule provisions will only be made available in the future if the State Commission files the requisite certification pursuant to § 54.314.

The certification required for rural carriers to receive federal universal support for all four quarters during calendar year 2001 is currently due to be filed with the FCC and USAC on or before October 1, 2001. The certification may be presented to these entities in the form of a letter from the State Commission. The letter must identify which carriers in the state are eligible to receive federal support during the 12-month period and must certify that the carriers listed will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

On September 11, 2001, the South Dakota Public Utilities Commission (Commission) received a filing from Three River Telco (Company) regarding its Request for Certification Regarding its Use of Federal Universal Service Support. The purpose of this filing was to provide information constituting Company's plan for the use of its federal universal service support and to otherwise verify that Company will use all federal

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<sup>1</sup>CC Docket No. 96-45, CC Docket No. 00-256, Fourteenth Report and Order, Twenty Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, FCC 01-157, Released May 23, 2001.

universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. § 254. As a part of its plan, Company listed estimates of the support it expected to receive from USAC as well as its estimated costs for the provision, maintenance, and upgrading of facilities and services. An Affidavit was attached to the Request for Certification.

On September 13, 2001, the Commission electronically transmitted notice of the filing and the intervention deadline of September 17, 2001, to interested individuals and entities. No parties sought intervention.

At its regularly scheduled meeting of September 18, 2001, the Commission considered this matter.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-31, and 47 U.S.C. § 254. The Commission found that the Company is eligible to receive federal support as it states it will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The Commission unanimously voted to approve Company's Request for Certification Regarding Its Use of Federal Universal Service Support. It is therefore

ORDERED, that the Company is eligible to receive federal support as it states it will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended. It is

FURTHER ORDERED, that the Commission approves Company's Request for Certification Regarding Its Use of Federal Universal Service Support.

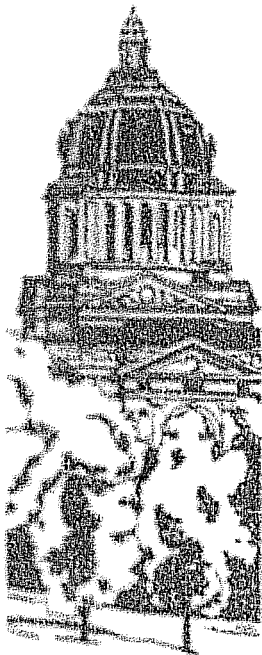
Dated at Pierre, South Dakota, this 25<sup>th</sup> day of September, 2001.

| 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  | <u>    <i>Alaine Kells</i>    </u> |
| Date  | <u>    <i>9/25/01</i>    </u>      |
| (OFFICIAL SEAL)   |                                    |

BY ORDER OF THE COMMISSION:

    *James A. Burg*      
JAMES A. BURG, Chairman

    *Pam Nelson*      
PAM NELSON, Commissioner



# South Dakota Public Utilities Commission



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

September 25, 2001

Ms. Magalie R. Salas  
Federal Communications Commission  
Office of the Secretary  
445 12th St. S.W.  
Washington, DC 20554

Ms. Irene Flannery  
Universal Service Administrative Company  
2120 L Street N.W., Suite 600  
Washington, DC 20037

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

Transportation/  
Warehouse Division  
Telephone (605)773-5280  
FAX (605)773-3228

Consumer Hotline  
1-800-532-1782

TTY Through  
Relay South Dakota  
1-800-577-1113

Internet Website  
[www.state.sd.us/puc/](http://www.state.sd.us/puc/)

Jim Berg  
Chairman  
Paul Nelson  
Vice-Chairman

Debra Hefner  
Executive Director

Barbara Best  
Marilyn C. Bettmann  
Dore Cisher  
Karna E. Cremer  
Christopher W. Down  
Terry Emerson  
Michelle M. Farris  
Marlene Fischback  
Heather K. Forney  
Kathy D. Foxner  
Mary Giddings  
Lara Healy  
Mary Healy  
Lisa Hill  
Diana Jacobson  
Amy Kayser  
Jennifer Klein  
Bob Knudde  
Debbie Kofke  
Christine Laetzel  
Gregory A. Kuster  
Keith Saeper  
Suzanne A. Stewart

RE: CC Docket No. 96-45, CC Docket No. 00-256, Fourteenth Report and Order, Twenty Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, FCC 01-157, Released May 23, 2001

Annual State Certification of Support for Rural Carriers

Dear Ms. Salas and Ms. Flannery:

The South Dakota Public Utilities Commission (Commission) hereby states that following rural incumbent local exchange carriers and/or eligible telecommunication carriers within its jurisdiction have been certified to receive support pursuant to CFR §§ 54.301, 54.305, and/or 54.307 and /or part 36, subpart F. The carriers listed below filed requests for certification with the Commission which support the affirmations that all federal high-cost support provided to them will be used only for the provision, maintenance, and upgrading of facilities and services for which support is intended. The Commission has granted certification to the following companies:

Armour Independent Telephone Company  
Baltic Telecom Cooperative and East Plains Telecom, Inc.  
Beresford Municipal Telephone Company  
Bridgewater-Canistota Independent Telephone Company  
Cheyenne River Sioux Tribe Telephone Authority  
Citizens Telecommunications Company of Minnesota, Inc.  
City of Brookings Municipal Telephone  
Consolidated Telcom  
Dakota Community Telephone