

TC02-012

KY

TC02-012

DOCKET NO. _____

In the Matter of _____ IN THE MATTER OF THE FILING FOR
 _____ APPROVAL OF A RECIPROCAL
 _____ TRANSPORT AND TERMINATION
 _____ AGREEMENT BETWEEN WWC
 _____ LICENSE L.L.C. AND NORTHERN
 _____ VALLEY COMMUNICATIONS, LLC

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
2/4 02	<i>Filed and Docketed;</i>
2/7 02	<i>Verbal Filing;</i>
4/19 02	<i>Order Approving Agreement;</i>
4/19 02	<i>Docket Closed</i>

TC02-012

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

February 4, 2002

Ms. Debra Elofson, Executive Director
SD Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501-5070

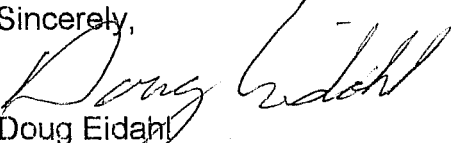
RE: Request for Approval of a Reciprocal Transport and Termination Agreement Between
Northern Valley Communications and Western Wireless

Dear Ms. Elofson:

Enclosed please find a Reciprocal Transport and Termination Agreement Between Northern Valley Communications and Western Wireless. The agreement has been negotiated between the two companies and we hereby request Commission approval of the agreement.

If you need any further information, please contact me.

Sincerely,


Doug Eidahl
General Manager

CC: Gene DeJordy, Esq. Western Wireless

Reciprocal Transport and Termination Agreement

This Reciprocal Transport and Termination Agreement (the "Agreement") is entered into by and between WWC License L.L.C. ("CMRS Provider") with offices at 3650 131st Ave., S.E., Bellevue, Washington 98006 and Northern Valley Communications, LLC ("Carrier") with offices at 235 East First Avenue, P.O. Box 260, Groton, South Dakota 57445-0260. CMRS Provider and Carrier are each individually a "Party" and are together the "Parties" to this Agreement. The "effective date" of this Agreement is September 1, 2001.

CMRS Provider is licensed by the Federal Communications Commission ("FCC") as a Commercial Mobile Radio Service provider. Carrier and CMRS Provider agree to exchange wireline to wireless and wireless to wireline traffic for the benefit of the Parties. Services provided by Carrier to CMRS Provider under this Agreement are provided pursuant to the receiving Party's status as a CMRS Provider.

WHEREAS, the Parties currently extend arrangements to one another allowing for the transport and termination of wireline to wireless and wireless to wireline traffic over each other's network facilities, between each other's subscribers; and

WHEREAS, the Parties wish to put in place an arrangement for the mutual exchange and reciprocal compensation of local telecommunications traffic in accord with the Telecommunications Act of 1996, and which is intended to supersede any previous arrangements between the parties relating to such traffic;

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, CMRS Provider and Carrier hereby agree as follows:

1. Scope. This Agreement addresses the parties' reciprocal compensation obligations as described in § 251(b)(5) of the Telecommunications Act of 1996 (the "Act"). By this Agreement, neither Party waives any other rights it may have under the Act or rules of the FCC, under state statute, or pursuant to rules of the State Public Utilities Commission ("Commission").

2. Interpretation and Construction. The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations or guidelines that subsequently may be prescribed by any federal, state or local government authority. To the extent required by any such subsequently prescribed law, rule, regulation or guideline, the Parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, regulation or guideline.

The Parties further agree and understand that the rates for local transport and termination agreed to, as set forth in Exhibit A hereto, have not been determined based on a specific costing methodology or company specific cost studies and that they may have to be adjusted when an appropriate costing methodology consistent with § 252(d)(2) of the Telecommunications Act is established and actual cost information or an acceptable cost proxy which reasonably reflects the actual costs of providing the local transport and termination services becomes available.

The Parties enter into this agreement without prejudice to any position they may take with respect to similar future agreements between the Parties or with respect to positions they may have taken previously, or may take in the future in any legislative, regulatory or other public forum addressing any matters, including matters related to the rates to be charged for transport and termination of local traffic or the types of arrangements prescribed by this agreement.

3. Definitions.

3.1 "Act" means the Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the FCC or the Commission within its state of jurisdiction.

3.2 "CMRS" or "Commercial Mobile Radio Service" is as defined in the Communications Act of 1934 as amended by the Telecommunications Act of 1996.

3.3 "Commission" means the South Dakota Public Utilities Commission.

3.4 "Local Calling Area (LCA)" for purposes of this Agreement, is a geographic area defined by the Major Trading Area (MTA) within which CMRS Provider provides CMRS services where local transport and termination rates apply as set forth in 47 CFR 51.701(b)(2).

3.5 "Local Traffic" for purposes of this Agreement means traffic which originates and terminates, based on the location of the wireless subscriber and landline end user, within the same CMRS LCA.

3.6 "Major Trading Area (MTA) is a geographic area established in the Rand McNally 1992 Commercial Atlas and Marketing Guide, 123rd Edition, at pages 38-39.

3.7 "Non-Local Traffic" is the completion of interMTA calls based on the location of the wireless subscriber and the land line end user to which switched access charges are applicable.

3.8 "Reciprocal Compensation Credit" for purposes of this Agreement and based on current traffic trends is a monetary credit for wireline to wireless traffic which is originated by a landline subscriber of Carrier and terminates to a subscriber of CMRS Provider within the LCA. Should traffic patterns change so that more wireless traffic is terminated by CMRS Provider than Carrier within a prescribed billing period, the reciprocal compensation credit shall be changed to reflect such difference.

3.9 "Transit Traffic" is traffic that originates from one provider's network, transits another telecommunication carrier's network, substantially unchanged, and terminates to yet another provider's network.

4. Reciprocal Traffic Exchange. Each Party shall reciprocally terminate CMRS local traffic originating on the other Party's network. Reciprocal traffic exchange addresses the exchange of CMRS traffic between CMRS Provider subscribers and Carrier end users. Either Party's CMRS local traffic may be routed through an intermediary for interconnection with the other Party's system. Any such arrangement may be modified by a separate agreement if both Parties wish to provide for two-way direct interconnection. Reciprocal traffic exchange per this Agreement covers only transport and termination services provided for CMRS providers only in association with CMRS services. Other services, including any direct interconnect arrangement established between the parties, shall be covered by a separate contract, tariff or price list. The transport and termination services provided hereunder are intended for wireless to wireline or wireline to wireless, but not wireline to wireline communications. Such services will not be used to terminate other types of traffic on Carrier's network (such as wireline originated traffic) and services used in violation hereof shall constitute a breach of this Agreement. In addition to any other remedies available, the Party whose services have been improperly used shall be entitled to recover the charges applicable to such traffic for the entire period of misuse. Any incidental services (e.g. directory assistance, operator services, etc.) will be billed at the standard rates for those services.

5. Local and Non-Local Traffic. This Agreement is intended to address the transport and termination of local CMRS traffic between the Parties. Local CMRS traffic is subject to only the local transport and termination charge(s) set forth below and is not subject to switched access charges. Non-local traffic is subject to either interstate or intrastate switched access charges, whichever is applicable.

Ancillary traffic which includes CMRS traffic that is destined for ancillary services including, but not limited to, directory assistance, 911/E911, operator call termination (busy line interrupt and verify), 800/888, LIDB, and information services requiring special billing will be exchanged and charged in accordance with the appropriate tariffs, local or switched access.

CMRS Provider agrees that if it uses the services provided by the Carrier for the transport and termination of non-local CMRS traffic, CMRS Provider shall be liable for interstate or intrastate switched access charges at the applicable tariff rates.

6. Local Transport and Termination Rate. CMRS Provider and Carrier shall reciprocally and symmetrically compensate one another for CMRS local traffic terminated to their end users. The rate(s) for the termination and transport of such traffic are as set forth in Exhibit A attached hereto. Carrier will be responsible for measuring the total monthly minutes of use terminating into its network from CMRS Provider's network. Measured usage begins when CMRS Provider's mobile switching office is signaled by the terminating end office that the call has been answered. Measured usage ends upon recognition by the mobile switching office of disconnection by the earlier of the Carrier's customer or the disconnection signal from the terminating end office. Carrier will only charge CMRS Provider for actual minutes of use and/or fractions thereof of completed calls. Minutes of use will be aggregated at the end of the billing cycle and rounded to the nearest whole minute.

7. Transit Traffic Rates. For transiting local traffic, the applicable local transit rate applies to the originating Party per Exhibit A attached.

8. Reciprocal Compensation Credit. The monthly minutes of use terminated into CMRS Provider's network from Carrier's network for purposes of this Agreement, which will determine the reciprocal compensation credit due CMRS Provider, will be calculated using the formula set forth in Exhibit A.

The resulting number shall be multiplied by the local transport and termination rate to determine the monthly reciprocal compensation credit. The reciprocal compensation credit for the local transport and termination will appear on the monthly bill as a credit against amounts due and payable from CMRS Provider to Carrier.

The reciprocal compensation credit will continue to be used by Carrier until such time as the CMRS Provider has the capability to accurately record and bill monthly minutes of use terminated into CMRS Provider's network from Carrier's network to the satisfaction of both parties. After such time, the reciprocal compensation credit will no longer be used by Carrier. Subsequently, both CMRS Provider and Carrier will bill the other party for local CMRS traffic terminated on its network by the other Party.

9. Billing and Collection Fees. CMRS Provider will only bear the portion of billing and collecting fees that are associated with wireless traffic transport and termination to its subscribers. This will apply to billing and collection costs incurred by the Carrier directly or indirectly. For the purpose of this Agreement,

CMRS Provider will bear cost for billing and collection services in order for the Carrier to render an accurate bill in an amount not to exceed the percentage used to calculate the reciprocal compensation credit to CMRS Provider per Exhibit A of total direct or indirect billing and collection costs incurred by the Carrier. Billing and collection arrangements entered into by CMRS Provider or the Carrier with any intermediaries will be addressed separately and are not part of this Agreement.

10. Term. Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be one (1) year from the effective date and shall continue in effect for consecutive one (1) year terms until either Party gives the other Party at least sixty (60) days written notice of termination, which termination shall be effective at the end of the notice period.

11. Termination Upon Default. Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party, provided however, that the non-defaulting Party notifies the defaulting Party in writing of the alleged default and that the defaulting Party does not cure the alleged default within thirty (30) calendar days of receipt of written notice thereof.

12. Liability Upon Termination. Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of termination had already accrued to the other Party or which thereafter accrues in any respect for any act or omission occurring prior to the termination relating to an obligation which is expressly stated in this Agreement. The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination of this Agreement.

13. General Responsibilities of Parties. Each Party is responsible to provide facilities within its network, which are necessary for routing and terminating traffic from the other Party's network.

14. Assignments, Successors and Assignees. Notwithstanding anything to the contrary contained herein, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their successors and assignees.

15. Force Majeure. Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control, including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, other major environmental disturbances or unusually severe weather conditions (collectively, a "Force Majeure Event").

16. No Third Party Beneficiaries. This Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.

17. Notices. Notices given by one Party to the other Party under this Agreement shall be in writing to the addresses of the Parties set forth above and shall be (i) delivered personally; (ii) delivered by express delivery service; (iii) mailed, certified mail or first class U.S. mail postage prepaid, return receipt requested; or (iv) delivered by telecopy.

18. Governing Law. For all claims under this Agreement that are based upon issues within the jurisdiction of the FCC, the Parties agree that remedies for such claims shall be governed by the FCC and the Communications Act of 1934, as amended. For all claims under this Agreement that are based upon issues within the jurisdiction of the State Public Utilities Commission, the parties agree that the jurisdiction for all such claims shall be with such Commission, and the remedy for such claims shall be as provided for by such Commission. In all other respects, this Agreement shall be governed by the domestic laws of the state of South Dakota without reference to conflict of law provisions.

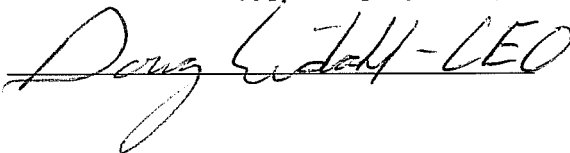
19. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 3 day of January, 2002.

“CMRS Provider” WWC License L.L.C.
(type company name)

By: 

“Carrier” Northern Valley Communications, LLC
(type company name)

By: 

-
- LOCAL TRANSPORT AND TERMINATION RATE
\$0.01 per MOU
- TRANSIT TRAFFIC RATE
\$0.0005 per MOU per route mile
- RECIPROCAL COMPENSATION CREDIT – CALCULATION
Multiply the total monthly local minutes of use of CMRS traffic delivered from CMRS Provider’s network for termination into Carrier’s network by a factor of 0.30.

South Dakota Public Utilities Commission
WEEKLY FILINGS
For the Period of January 31, 2002 through February 6, 2002

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

CN02-001 In the Matter of the Complaint filed by Roslyn Bullion, Dell Rapids, South Dakota, against MidAmerican Energy Company Regarding a Billing Dispute.

Complainant has several billing issues in dispute regarding more than one property. Complainant requests that her debt be removed from her son's address, that money she has paid be applied to the appropriate account, information be provided to her as to why she should pay a bill for a vacant property that she does not own, she be awarded monetary relief for a collection action that she does not owe, her service be restored and meter readings be given for the months of November, December, January, February, March and April.

Staff Analyst: Mary Healy
Staff Attorney: Kelly Frazier
Date Docketed: 02/04/02
Intervention Deadline: N/A

TELECOMMUNICATIONS

TC02-012 In the Matter of the Filing for Approval of a Reciprocal Transport and Termination Agreement between WWC License L.L.C. and Northern Valley Communications, LLC.

On February 4, 2002, the Commission received for approval a filing for a Reciprocal and Termination Agreement between Northern Valley Communications and Western Wireless. According to the parties, the Agreement is a negotiated agreement whereby the parties wish to put in place an arrangement for the mutual exchange and reciprocal compensation of local telecommunications traffic in accord with the Telecommunications Act of 1996. 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 February 25, 2002. 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: 02/04/02
Initial Comments Due: 02/25/02

TC02-013 In the Matter of the Application of Buyers United, Inc. for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota.

Buyers United, Inc. has filed an application for a Certificate of Authority to provide interexchange telecommunications services in South Dakota. The applicant will provide service under Buyers United, Inc. and may provide service under the names of its two divisions "BuyersOnline" and "United Carrier Networks." Buyers United, Inc. intends to resell intrastate long distance and provide in a limited capacity, internet services throughout South Dakota.

Staff Analyst: Michele Farris
Staff Attorney: Kelly Frazier
Date Docketed: 02/05/02
Intervention Deadline: 02/22/02

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

IN THE MATTER OF THE FILING FOR))	ORDER APPROVING
APPROVAL OF A RECIPROCAL TRANSPORT))	AGREEMENT
AND TERMINATION AGREEMENT BETWEEN))	
WWC LICENSE L.L.C. AND NORTHERN))	TC02-012
VALLEY COMMUNICATIONS, LLC))	

On February 4, 2002, Northern Valley Communications, LLC (Northern Valley) filed for approval by the South Dakota Public Utilities Commission (Commission) a reciprocal transport and termination agreement between WWC License L.L.C. (WWC) and Northern Valley.

On February 7, 2002, the Commission electronically transmitted notice of this filing to interested individuals and entities. The notice stated that any person wishing to comment on the parties' request for approval had until February 25, 2002, to do so. No comments were filed.

At its duly noticed April 17, 2002, meeting, the Commission considered whether to approve the agreement between Northern Valley and WWC. Commission Staff recommended approval.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, and the Federal Telecommunications Act of 1996. In accordance with 47 U.S.C. § 252(e)(2), the Commission found that the agreement does not discriminate against a telecommunications carrier that is not a party to the agreement and the agreement is consistent with the public interest, convenience, and necessity. The Commission unanimously voted to approve the agreement. It is therefore

ORDERED, that the Commission approves the agreement.

Dated at Pierre, South Dakota, this 19th day of April, 2002.

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>Arlene Kalbo</i></u>
Date: <u>4/23/02</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Robert K. Sahr
ROBERT K. SAHR, Commissioner