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BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION UTILITIES COMMISSION

IN THE MATTER OF THE REQUEST OF KENNEBEC TELEPHONE COMPANY FOR CERTIFICATION REGARDING USE OF FEDERAL UNIVERSAL SERVICE SUPPORT.

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REQUEST FOR CERTIFICATION

Kennebec Telephone Company (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:

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, 54.305, and/or 54.307, and/or 47 C.F.R. Part 36, Subpart F (high-cost loop support, local

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

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 2003 is currently due to be filed with the FCC and USAC on or before October 1, 2002. 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 756 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.²

- 5. The purpose of this filing is to provide information indicating the Company's use of 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....
- 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:

² Fourteenth Report and Order, ¶ 188.

[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.³

- 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 2003. As of this time, specific support amounts the Company should receive in 2003 have not yet been identified by USAC. Included in Exhibit A attached hereto, however, are estimated universal service support amounts for such period.
- 10. The Company also provides in Exhibit A, attached hereto, estimates of the expenditures that will be incurred in year 2003 for the provision, maintenance, and upgrading of facilities and services supported by federal universal service. Consistent with the universal service principles set forth in the federal law and also the FCC orders referenced herein, the Company will use federal universal service amounts received in 2003 to offset a portion of 2003 expenditures incurred within the accounts referenced in Exhibit A. 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

³ 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.

universal service support for these purposes is clearly consistent with the federal universal service provisions.

14. Based on the foregoing information, the attached Exhibit A and Exhibit B. Affidavit of Rod Bowar, Kennebec Telephone Company requests that this Commission issue an appropriate certification to the FCC and USAC indicating that Kennebec Telephone 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 2003. In order to ensure that this certification is issued to the FCC prior to October 1, 2002, Kennebec Telephone Company would further ask the Commission to expedite the process that is initiated based on this filing.

Dated this 28th day of August, 2002.

Respectfully submitted,

Larson Sundail Larson, Schould + Fox, P.C.

Kennebec Te tep home Co., Inc. (signed by corporate attorney)

PA DOX 187 Kennebec SD 57544-0187

Exhibit A Kennebec Telephone Company

Estimated Year 2003 Federal Universal Service Receipts

High cost loop support	\$341	,366
Local switching support	\$234	,480
Safety Net Additive support	\$	0
Safety Valve Loop Cost Adjustment	\$	0
TOTAL	\$575	,846

<u>Estimated</u> Year 2003 Expenditures For Provision, Maintenance, and Upgrading Of Facilities and Services Supported By Federal Universal Service Funding

Estimated Plant Specific Operations Expenses

Network support (Accts. 6110-16) General support (Accts. 6120-24) Central office (Accts. 6210-6232) Cable and wire facilities (Accts. 6410-6441) Network operations (Accts. 6530-35) Depreciation and amortization (Accts. 6560-65)	\$ 0 \$ 34,023 \$ 144,044 \$ 126,072 \$ 31,518 \$ 486,623				
Customer Operations Expenses					
Customer services (Accts. 6620-23)	\$ 75,926				
Corporate Operations Expenses					
Executive and planning (Accts. 6710-6712) General and administrative (Accts. 6720-28)	\$ 136,578 \$ 230,029				
Estimated Total Recurring Year 2003 Supported Expenses, from above, Before Return On Investment	\$1,264,813				
Estimated Additions					
Switching (Acct. 2210) Cable and wire (Acct. 2410) TOTAL	\$ 55,000 \$ 100,000 \$ 155,000				
Estimated Total Year 2003 Supported Expenditures, Before Return On Investment	\$1,419,813				

Exhibit B AFFIDAVIT

As an authorized representative of Kennebec Telephone Company, I, Rod Bowar, 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 Kennebec Telephone 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).

Rod Bowar

Subscribed and Sworn to before me this 28 day of August, 2002.

NO FARY PUBLIC

Commission expires: 10-25-07

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of August 29, 2002 through September 4, 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 report. Phone: 605-773-3705 Fax: 605-773-3809

CONSUMER COMPLAINTS

CT02-035 In the Matter of the Complaint filed by Sharon and Robert Herrick, Emery, South Dakota, against Sprint Communications Company L.P. Regarding Unauthorized Switching of Services.

Complainants state that their service was switched without their authorization. Sprint has indicated in its informal response to the complaint that the switch was made over the internet by Robert. Complainants state that they did not switch service over the internet and that the social security number and date of birth for Robert are incorrect. Complainants request \$1,000.00 allowed under South Dakota law.

Staff Analyst: Mary Healy Staff Attorney: Kelly Frazier Date Docketed: 09/03/02 Intervention Deadline: N/A

TELECOMMUNICATIONS

TC98-146 In the Matter of the Filing by GCC License Corporation for Designation as an Eligible Telecommunications Carrier.

On October 18, 2001, the Public Utilities Commission (Commission) granted eligible telecommunications carrier (ETC) designation to GCC License Corporation (GCC) in select study areas of rural telephone companies upon GCC's compliance with certain conditions as stated in the Commission's order. By letter dated January 20, 2000, the Commission was notified that GCC License L.L.C. had changed its name to WWC License L.L.C. Pursuant to the Commission's order which designated WWC License LLC, a subsidiary of Western Wireless Corporation (Western Wireless), as an ETC in South Dakota, Western Wireless on August 29, 2002, submitted its compliance filing with the Commission.

Staff Analyst: Harlan Best

Staff Attorney: Karen E. Cremer

Date Docketed: 08/25/98 Intervention Deadline: N/A

TC02-113 In the Matter of the Filing for Approval of Statement of Generally Available Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services and Resale of Telecommunications Services between Qwest Corporation and New Edge Network, Second Revision.

On August 29, 2002, the Commission received for approval a Filing for Approval of Statement of Generally Available Terms (SGAT) and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services and Resale of Telecommunications Services between Qwest Corporation (Qwest) and New Edge Network (New Edge), Second Revision. According to the parties this SGAT sets forth the terms, conditions and prices under which Qwest will offer and provide to any requesting CLEC network Interconnection, access to unbundled network elements, ancillary services, and telecommunication services available for resale within the geographical areas in which Qwest is providing local exchange service at the time and for which Qwest is the incumbent local exchange carrier within the state of South Dakota for purposes of providing local telecommunication services. 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 September 18, 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: 08/29/02

Initial Comments Due: 09/18/02

TC02-114 In the Matter of the Request of Kennebec Telephone Company For Certification Regarding its Use of Federal Universal Service Support.

On August 30, 2002, Kennebec Telephone Company (Kennebec) provided information constituting Kennebec's plan for the use of its federal universal service support and to otherwise verify that Kennebec 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. Section 254.

Staff Analyst: Harlan Best

Staff Attorney: Karen E. Cremer

Date Docketed: 08/30/02

Intervention Deadline: 09/13/02

TC02-115 In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and Ionex Communications North, Inc.

On September 3, 2002, the Commission received for approval a Filing of Bill and Keep Compensation Amendment to the Interconnection Agreement between Ionex Communications North, Inc. for South Dakota (Ionex) and Qwest Corporation (Qwest). According to the parties, this is an Amendment to the negotiated interconnection agreement between Ionex and Qwest which was approved by the Commission on September 14, 1999, and is made to utilize the Bill and Keep Compensation Mechanism as set forth in Attachment 1, attached to the

Amendment. 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 September 23, 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: 09/03/02

Initial Comments Due: 09/23/02

TC02-116 In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and Level 3 Communications, LLC.

On September 3, 2002, the Commission received for approval a Filing of Single Point of Presence (SPOP) Amendment to the Interconnection Agreement between Level 3 Communications, LLC (Level 3) and Qwest Corporation (Qwest). According to the parties, this is an Amendment to the negotiated Interconnection Agreement between Level 3 and Qwest which was approved by the Commission on June 17, 2002, in Docket No. TC02-060. The Amendment is made in order to add terms and conditions for SPOP in the LATA as set forth in Attachment 1 and Exhibit A, attached to the Amendment. 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 September 23, 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: 09/03/02

Initial Comments Due: 09/23/02

TC02-117 In the Matter of the Request of Dickey Rural Telephone Cooperative for Certification Regarding its Use of Federal Universal Service Support.

On September 3, 2002, Dickey Rural Telephone Cooperative (Dickey Rural Cooperative) provided information constituting Dickey Rural Cooperative's plan for the use of its federal universal service support and to otherwise verify that Dickey Rural Cooperative 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. Section 254.

Staff Analyst: Harlan Best

Staff Attorney: Karen E. Cremer

Date Docketed: 09/03/02

Intervention Deadline: 09/13/02

TC02-118 In the Matter of the Request of Dickey Rural Communications, Inc. for Certification Regarding its Use of Federal Universal Service Support.

On September 3, 2002, Dickey Rural Communications, Inc. (Dickey Rural Communications) provided information constituting Dickey Rural Communications's plan for the use of its federal

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE REQUEST OF)	ORDER GRANTING
KENNEBEC TELEPHONE COMPANY FOR)	CERTIFICATION
CERTIFICATION REGARDING ITS USE OF)	
FEDERAL UNIVERSAL SERVICE SUPPORT)	TC02-114

On May 23, 2001, the Federal Communications Commission (FCC) released an Order concerning 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 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 2002 is currently due to be filed with the FCC and USAC on or before October 1, 2002. 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 August 30, 2002, the South Dakota Public Utilities Commission (Commission) received a filing from Kennebec Telephone Company (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

¹CC Docket No. 96-45, CC Docket No. 00-256, <u>Fourteenth Report and Order</u>, <u>Twenty Second Order on Reconsideration</u>, and <u>Further Notice of Proposed Rulemaking in CC Docket No. 96-45</u>, and <u>Report and Order in CC Docket No. 00-256</u>, 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 5, 2002, the Commission electronically transmitted notice of the filing and the intervention deadline of September 13, 2002, to interested individuals and entities. No parties sought intervention.

At its regularly scheduled meeting of September 24, 2002, 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 27th day of September, 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: Date: (OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

PAM NELSON, Commissioner

ROBERT K. SAHR, Commissioner



South Dakota Public Utilities Commissi



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

September 27, 2002

Ms. Marlene H. Dortch, Secretary Federal Communications Commission Office of the Secretary 445 12th Street S.W. Washington, DC 20554

Ms. Mariene H. Dortch, Secretary Federal Communications Commission Office of the Secretary 9300 East Hampton Drive Capitol Heights, MD 20743

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

Washington, DC 20037

CC Docket No. 96-45, CC Docket No. 00-256, Fourteenth Report and Re: 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. Dortch and Ms. Flannery:

The South Dakota Public Utilities Commission (Commission) hereby states that the following rural incumbent local exchange carriers and/or eligible telecommunications carriers within its jurisdiction have been certified to receive support pursuant to 47 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 their 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 the support is intended, consistent with section 254(e) of the Communications Act. The Commission has granted certification to the following companies:

Armour Independent Telephone Company (391640) Baltic Telecom Cooperative and East Plains Telecom, Inc. (391642) Beresford Municipal Telephone Company (391649) Bridgewater-Canistota Independent Telephone Company (391640) (co. no. 0158) Brookings Municipal Telephone (391650) Cheyenne River Sioux Tribe Telephone Authority (391647) Citizens Telecommunications Company of Minnesota, Inc. (361123) City of Faith Municipal Telephone Company (391653)

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

Transportation/ Warehouse Division Telephone (605)773-5280 FAX (605)773-3225

> Consumer Hotline 1-800-332-1782

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

Internet Website www.state.sd.us/puc

> Jim Burg Chairman Pam Nelson Vice-Chairman **Bob Sahr** Commissioner

Debra Elofson **Executive Director**

Harlan Best Martin C. Bettmann Karen E. Cremer Tina Douglas Christopher W. Downs **Terry Emerson** Michele M. Farris Marlette Fischbach Heather K. Forney Kelly D. Frazier Mary Giddings Tom Graham Mary A. Healy Terri Iverson Lisa Hull Dave Jacobson Amy Kayser **Bob Knadle** Delaine Kolbo Gregory A. Rislov Keith Senger John Smith Rolayne Ailts Wiest

Dakota Community Telephone, Inc. (391652)

Dickey Rural Communications, Inc. (381611) (co. no. 1681)

Dickey Rural Telephone Cooperative (381611) (co. no. 1611)

Golden West Telecommunications Cooperative, Inc. (391659)

Great Plains Communications, Inc. (371577)

Heartland Telecommunication Company of Iowa d/b/a Hickory Tech Corporation (351096)

Interstate Telecommunications Cooperative, Inc. (391654)

James Valley Cooperative Telephone Company (391664)

Jefferson Telephone Co., Inc. (391666)

Kadoka Telephone Company (391667)

Kennebec Telephone Company (391668)

McCook Cooperative Telephone Company (391669)

Midstate Communications, Inc. (391670)

Mount Rushmore Telephone Company and Fort Randall Telephone Company (391660)

Red River Telecom, Inc. (381631)

Roberts County Telephone Cooperative Association and RC Communications, Inc. (391674)

RT Communications, Inc. (512251)

Santel Communications Cooperative, Inc. (391676)

Sioux Valley Telephone Company (391677)

Splitrock Telecom Cooperative, Inc. and Splitrock Properties, Inc. (391657)

Stockholm-Strandburg Telephone Company (391679)

Sully Buttes Telephone Cooperative, Inc. (391680)

Three River Telco (371525)

Tri-County Telecom, Inc. (391682)

Union Telephone Company (391684)

Valley Telecommunications Cooperative Association, Inc. (391685)

Valley Telephone Company (361495)

Vivian Telephone Company d/b/a Golden West Communications, Inc. (391686)

Western Telephone Company (391688)

West River Cooperative Telephone Company (391689)

West River Telecommunications Cooperative (381637) (co. no. 4414)

West River Telecommunications Cooperative (Mobridge) (391671)

Also enclosed are the Orders Granting Certification to the above-referenced rural incumbent local exchange carriers and/or eligible telecommunications carriers. Should you have any questions, please do not hesitate to contact us for further information.

Sincerely,

James A. Burg Chairman Pam Nelson Commissioner

Robert K. Sahr Commissioner