

In the Matter of \_\_\_\_\_ IN THE MATTER OF THE  
APPLICATION OF CAPSULE  
COMMUNICATIONS, INC. FOR A  
CERTIFICATE OF AUTHORITY TO  
PROVIDE INTEREXCHANGE  
TELECOMMUNICATIONS SERVICES IN  
SOUTH DAKOTA

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
6/20 03	Filed and Docketed;
6/26 03	Weekly Filing;
8/15 03	Amendment to Application;
9/18 03	Letter Requesting Withdrawal of Filing;
9/23 03	Order Permitting Withdrawal of Application and Closing Docket;
9/23 03	Docket Closed.

860-5091

KY/MZ

**Lance J.M. Steinhart, P.C.**  
Attorney At Law  
1720 Windward Concourse  
Suite 250  
Alpharetta, Georgia 30005

Also Admitted in New York  
and Maryland

Telephone: (770) 232-9200  
Facsimile: (770) 232-9208  
Email: lsteinhart@telecomcounsel.com

June 18, 2003

**VIA OVERNIGHT DELIVERY**

Mr. William Bullard  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Ave-Pierre, SD 57501-5070  
(605) 773-3201

Re: Capsule Communications, Inc.

**RECEIVED**  
JUN 20 2003  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

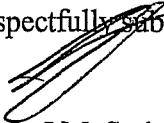
Dear Mr. Bullard:

Enclosed please find one original and ten (10) copies of Capsule Communications, Inc.'s Application for Registration of a Telecommunications Company.

I have also enclosed a check in the amount of \$250.00 payable to the "South Dakota Public Utilities Commission" for the filing fee, and an extra copy of this cover letter to be date stamped and returned to me in the enclosed self-addressed prepaid envelope.

If you have any questions or if I may provide you with any additional information, please do not hesitate to contact me.

Respectfully submitted,

  
Lance J.M. Steinhart  
Attorney for Capsule Communications, Inc.

Enclosures  
cc: Kathie Dilks

APPLICATION FOR REGISTRATION  
OF CAPSULE COMMUNICATIONS, INC.  
FILED WITH THE  
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE )  
APPLICATION OF )  
CAPSULE COMMUNICATIONS, INC. )  
)  
FOR AN ORDER ) Docket No.  
AUTHORIZING THE REGISTRATION )  
OF APPLICANT AS A )  
TELECOMMUNICATIONS COMPANY )

APPLICATION

Application is hereby made to the South Dakota Public Utilities Commission for an Order authorizing Capsule Communications, Inc. ("Applicant") to register as a telecommunications company within the State of South Dakota. The following information is furnished in support thereof:

1. Name, Address and Telephone Number of Applicant:

Capsule Communications, Inc.  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020  
Telephone: (215) 633-9400  
Toll-Free Customer Service: (800) 872-3369

2. The name under which the Applicant will provide these services if different than in 1. above:

Capsule Communications, Inc.

**3. Applicant's corporate information:**

Applicant was organized in the State of Delaware on October 21, 1999. A copy of the Applicant's Articles of Incorporation is attached hereto as Exhibit A. A copy of Applicant's Certificate of Authority to transact business as a foreign corporation in the State of South Dakota is attached hereto as Exhibit B.

The Applicant has no principal office in South Dakota. The name and address of the Applicant's registered agent is:

TCS Corporate Services, Inc.  
C/O Marilyn Person  
819 West Third  
Pierre, South Dakota 57501

The names and address of each corporation, association, partnership, cooperative, or individual holding a 20% or greater ownership or management interest in the Applicant corporation and the amount and character of the ownership or management interest are as follows:

Name and Address	Shares Owned	Percentage of all Shares Issued and Outstanding and Voting Control
Covista Communications, Inc.	22,668	100%

All of the above can be reached through the company as set forth in Section 1 above.

4. **Partnership Information:**

Not Applicable.

5. **Description of Services Applicant intends to offer:**

Applicant is a reseller which intends to offer interexchange services, including 1+ and 101XXXX outbound dialing, 800/888 toll-free inbound dialing, directory assistance, data services, and travel card/calling card service. The company will not offer prepaid calling card service.

6. **Means by which the Applicant intends to provide services:**

Applicant does not own or maintain any transmission facilities or switching equipment in the State of South Dakota. The Applicant will provide services through MCI Worldcom and Global Crossing, its underlying carriers. As a reseller, Applicant has no points of presence in the State of South Dakota, thus Applicant neither owns, leases, nor operates any switching, transmission, or other physical facilities in the State of South Dakota, and no such facilities will be used by Applicant in providing service in the State of South Dakota. Rather, Applicant will be engaged in reselling services provided by facilities-based carriers within the State of South Dakota.

7. **Geographic Areas in which services will be offered:**

Applicant intends to provide services on a statewide basis.

8. **Financial Qualifications:**

Applicant is financially qualified to provide intrastate interexchange telecommunications services within South Dakota. In particular, Applicant has adequate access to the capital

necessary to fulfill any obligations it may undertake with respect to the provision of intrastate telecommunications services in the State of South Dakota. See Exhibit C, which is attached hereto, copies of Covista Communications, Inc.'s Form 10K for the period ended January 31, 2003, which demonstrate that Applicant has the financial ability to provide the services that it proposes to offer. The Applicant will not require advance payments, prepayments or deposits.

**9. Applicant's complaints and regulatory matters contact and how Applicant handles customer billings and customer service matters.**

All inquiries regarding regulatory matters should be addressed to:

Thomas P. Gunning, Chief Financial Officer  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020  
Telephone: (215) 633-9400  
Facsimile: (215) 244-3440  
E-Mail: kdilks@capsulecom.com

All inquiries regarding complaints should be addressed to:

Nancy Hawkins-Russell, Customer Service Manager  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020  
Telephone: (215) 633-9400; (800) 872-3369 (toll-free)  
Facsimile: (215) 244-3440  
E-Mail: nhawkins@capsulecom.com

The Applicant's customers will be direct billed utilizing "real-time" completed call detail information from Applicant's underlying carriers. Applicant's toll-free number will be on all invoices and customer service will be provided in-house.

**10. Regulatory Status:**

Applicant is currently in the process of obtaining all required authorizations from the state regulatory agencies. Applicant is currently authorized to provide service in Colorado, Connecticut, Delaware, Florida, Idaho, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, Texas, Utah, Vermont, Virginia and Washington.

The Applicant is in good standing with the appropriate regulatory agency in the states where it is registered or certified. The Applicant has never been denied registration or certification nor withdrawn its request for registration or certification in any state.

**11. Description of Marketing**

Applicant intends to market its services to primarily to residential customers and to small to mid-sized businesses. All sales personnel will have telecommunications service experience. Applicant will market through direct sales by employees and agents. Applicant does not intend to engage in multilevel marketing at this time. Applicant's marketing materials are currently being developed and are not available at this time.

**12. Cost Support:**

Applicant intends to provide services at a price above its cost.

**13. Federal Tax Identification Number:**

22-3055962

**14. The Number and Nature of Complaints filed against the Applicant with any state or federal regulatory commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered:**

None

**15. Tariff**

A copy of Applicant's proposed tariff is attached hereto as Exhibit E.



**WHEREFORE,** the undersigned Applicant requests that the South Dakota Public Utilities Commission enter an order granting this application.

DATED this 17 day of The, 2003.

**Capsule Communications, Inc.**

By: \_\_\_\_\_  
Lance J.M. Steinhart, Esq.  
Lance JM Steinhart, PC  
1720 Windward Concourse  
Suite 250  
Alpharetta, Georgia 30005  
(770) 232-9200

State of New Jersey

County of Essex

Thomas P. Gunning, being first duly sworn, deposes and says that he/she is the Chief Financial Officer of Capsule Communications, Inc., the Applicant in the proceeding entitled above, that he/she has read the foregoing application and knows the contents thereof; that the same are true of his/her knowledge, except as to matters which are therein stated on information or belief, and to those matters he/she believes them to be true.

X Thomas P. Gunning  
Thomas P. Gunning  
Chief Financial Officer

X Subscribed and sworn to before this 30 day of May, 2003.

Kerry C Feder  
Notary Public

**KERRY FEDER**  
**NOTARY PUBLIC OF NEW JERSEY**  
No. 2296106  
**My Commission Expires 01/24/08**

My Commission expires: \_\_\_\_\_

**LIST OF EXHIBITS**

- A - ARTICLES OF INCORPORATION**
- B - CERTIFICATE OF AUTHORITY**
- C - MARKETING MATERIAL**
- D - FINANCIAL INFORMATION**
- E - PROPOSED TARIFF**

**EXHIBIT A - ARTICLES OF INCORPORATION**

CERTIFICATE OF INCORPORATION

OF

MANSOL CERAMICS COMPANY

This is to certify that we, the undersigned, do hereby associate ourselves in a corporation under and by virtue of the provisions of an Act of the Legislature of the State of New Jersey, entitled, "An Act Concerning Corporations," (Title 17A of the Revised Statutes of 1937) and do severally agree to take the number of shares of capital stock set opposite our respective names.

FIRST: The name of the corporation is

MANSOL CERAMICS COMPANY

SECOND: The location of the principal office

in this State is:

744 Broad Street  
City of Newark  
County of Essex

The name of the agent therein in charge thereof upon whom process against this corporation may be served is:

NATHAN RAVIN

THIRD: The objects for which the corporation is

formed are:

(a) To engage in the business of compacting, pressing and sintering powdered material, and to develop, manufacture, produce, sell, buy and exchange same. develop, manufacture, produce, sell, buy, purchase, range all types of electronic components, devices, mechanism of every nature and description, or any product, device, component or element used in connection therewith, including, but not by way of limitation, any and all types of ceramic devices, components or elements, and for any other purpose that the Board of Directors may deem advisable for the corporation to engage in.

(k) To purchase, hold, reissue and sell the shares of its own capital stock, provided that shares of its own capital stock belonging to it shall not be voted upon directly or indirectly.

(l) To conduct business in any of the States, territories, possessions or dependencies of the United States, in the District of Columbia, and in any and all foreign countries, and to have one or more offices therein and to hold, purchase, mortgage and convey real and personal property therein without limit as to amount, but always subject to the laws of such state, territory, possession, dependency or country.

(m) In general, to carry on other business in connection with the foregoing, and to use and exercise all the powers conferred by Title 14, Corporations, General Revised Statutes of New Jersey, and to do any or all of the things hereinbefore set forth to the same extent as natural persons might or could do, and in any part of the world.

FOURTH: The By-Laws of this corporation shall be made, altered and amended by a majority vote of the directors of the corporation present at any meeting at which a quorum is present as prescribed in the said By-Laws.

FIFTH: The total authorized capital stock of this corporation is One Hundred Thousand (\$100,000.00) Dollars divided into one thousand (1000) shares of a par value of One Hundred (\$100.00) Dollars each.

(a) All or any part of the shares of common stock may be issued by the corporation from time to time, and for such consideration as may be determined and fixed by the Board of Directors as provided by law.

(b) No stockholder shall have pre-emptive

rights in the stock of this corporation.

SIXTH: Any person made a party to any action, suit or proceeding by reason of the fact that he, his testator or intestate, is or was a director or officer of the Corporation, or of any corporation which he served as such at the request of the Corporation, shall be and by virtue of the enactment of this By-Law is hereby indemnified by the Corporation against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him in defending himself in such action, suit or legal proceeding, or in any appeal therein, except in relation to matters as to which such officer or director is liable for negligence or misconduct in the performance of his duties. Such right to indemnification shall exist whether or not such person continues to be a director or officer of the Corporation or of such other corporation at the time such expenses are incurred. As used in this Article, reasonable expenses shall include, in addition to any other costs which may be imposed upon or reasonably incurred by such director or officer, the amounts of judgments or amount paid in settlement by such officer or director, but shall not include any expenses incurred by such director or officer in connection with a matter which shall have been the subject of such action, suit or legal proceeding, disposed of otherwise than by adjudication on the merits, unless in relation to such matter such director or officer shall not have been liable for negligence or misconduct in the performance of his duties as such director or officer. The right to indemnity and the amount payable by way of indemnity shall be determined and paid in accordance with Section 14:3-4 of the Revised Statutes of the State of New Jersey.

SEVENTH: The names and post office addresses of the incorporators and the number of shares subscribed for by each, the aggregate of which \$3,000.00 of common stock is the amount of capital stock with which this company will commence business are as follows:

JEAN STUBITS	4 McInnis Road Metuchen, New Jersey	10 shares
CECILIA P. McCORMICK	393 Seventh Avenue Newark, New Jersey	10 shares
ZELMA RAVEN	82 Goldsmith Avenue Newark, New Jersey	10 shares

EIGHTH: The period of existence of this corporation is unlimited.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 8th day of March, 1960.

Jean Stubits L.S.  
JEAN STUBITS

Cecilia P. McCormick L.S.  
CECILIA P. McCORMICK

Zelma Raven L.S.  
ZELMA RAVEN

Signed, Sealed and  
Delivered in the  
Presence of


David N. Raven  
DAVID N. RAVEN



STATE OF NEW JERSEY:  
COUNTY OF E S S E X:

SS.

BE IT REMEMBERED, that on this 8th day of March, 1960, before me, the subscriber, personally appeared JEAN STUBITS, CECILIA P. McCORMICK, and ZELMA RAVEN, who, I am satisfied, are the persons named in and who executed the foregoing certificate, and, I having first made known to them the contents thereof, they did acknowledge that they signed, sealed and delivered the same as their voluntary act and deed for the uses and purposes therein expressed.

  
\_\_\_\_\_  
DAVID H. RAVIN  
Attorney at Law of New Jersey

CERTIFICATE OF MERGER  
of  
MANSOL DEVELOPMENT CORPORATION

1. In accordance with Title 14A of the New Jersey Statutes, N.J.S. 14A:10-4, as amended, as made and provided, the corporation submits the following Plan of Merger, annexed hereto as Schedule "A", and made a part hereof, by reference as though set forth at length.

2. The number of shares outstanding and entitled to vote in favor of said Plan of Merger, are as follows:

(a) Mansol Ceramics Company, 30 shares outstanding, all voting stock. 30 shares voted unanimously in favor of the Plan of Merger.

(b) Mansol Development Corporation, 200 shares outstanding, voting stock. 200 shares voted unanimously in favor of the Plan of Merger.

3. Said merger was approved by the Board of Directors, unanimously, of both corporations.

4. The merger shall become effective in accordance with the Plan of Merger, annexed hereto as Schedule "A", at the time of its filing with the Secretary of State.

5. This is to certify that the foregoing constitutes the Plan of Merger, as annexed, its unanimous approval by the Directors and stockholders of the respective corporations, and the date that it shall become effective.

ATTEST:

Leonard W. Bennett  
Secretary

Henry B. Baker  
President

Dated: January 6, 1970

The principal office of the corporation  
is located at 140 Little Street, Belleville,  
County of Essex, State of New Jersey. 07109

AGREEMENT OF MERGER, dated the 6th day of January, 1970, by and between MANSOL DEVELOPMENT CORPORATION, a corporation organized under the laws of the State of New Jersey, hereinafter called "DEVELOPMENT", and MANSOL CERAMICS COMPANY, a corporation, organized under the laws of the State of New Jersey, hereinafter called "CERAMICS"

The authorized capital stock of Development consists of 1000 shares, Class A common non-par value voting stock, of which 200 shares are issued and outstanding; and 1500 shares of Class B common non-par value, non-vot  $\gamma$ , no shares of which are issued and outstanding.

*Make Corp  
Stock*

The authorized capital stock of Ceramics consists of 30 shares of non-par voting stock of which 30 shares are issued and outstanding. Upon the effective date of the merger, hereinafter provided for, there shall be 1000 shares of non-par voting common stock to be issued and outstanding.

The Boards of Directors of Development and Ceramics, respectively, deem it desirable and in the best interest of the corporations and their stockholders that Development be merged into Ceramics and the corporations respectively desire that they so merge under and pursuant to the laws of the State of New Jersey, as made and provided.

Now, therefore, in consideration of the premises and of the mutual covenants and agreements herein set forth and for the purpose of prescribing the terms and conditions of such merger, the parties hereto covenant and agree as follows:

1. As soon as all the following events shall have happened, viz.,

(a) This Agreement shall have been adopted and approved by the votes of the holders of all of the outstanding capital stock of Ceramics and Development, in accordance with the requirements of the laws of the State of New Jersey, as made and provided, and that fact shall have been certified hereon by the respective secretaries or assistant secretaries of each of such corporations under their respective corporate seals; and

(b) This Agreement, so adopted and certified, shall have been signed, acknowledged and filed, all as required by the provisions of Title 14A of New Jersey Statute (General Corporation Act of the State of New Jersey, as amended), as made and provided.

(c) A Certificate of Merger shall be executed on behalf of each corporation and shall be filed in the Office of the Secretary of State of New Jersey, in accordance with Title 14A: 10-4 of the New Jersey Statutes, as amended;

thereupon Development shall be deemed to have merged with and into Ceramics which shall survive the merger and which shall have the name provided in paragraph 2 hereof.

The single corporation which shall so survive the merger is hereinafter sometimes called the Surviving Corporation; Development and Ceramics are hereinafter sometimes called the Constituent Corporations; and the date and time when the Constituent Corporations shall merge and become the Surviving Corporation are hereinafter referred to as "the effective date of the merger".

2. The name of the Surviving Corporation shall be Mansel Ceramics Company. The purposes for which the Surviving Corporation is formed and the nature of the business to be transacted by it shall be as set forth in the Act of Incorporation of

of Ceramics, as amended on the effective date of the merger.

3. On the effective date of the merger, the Act of Incorporation of Ceramics, as amended to date and as it will be amended by the Amendment-Articles of Consolidation filed in New Jersey, shall be the Act of Incorporation of the Surviving Corporation until further amended as provided by law.

4. On the effective date of the merger, the By-laws of Ceramic, as heretofore amended, shall be the By-laws of the Surviving Corporation until the same shall be altered, amended, or repealed, or until new By-laws shall be adopted, in accordance with the provisions thereof.

5. The Board of Directors of the Surviving Corporation shall consist of four (4) directors, and shall hold office until the next annual meeting of the stockholders of the Surviving Corporation; and until his successor shall have been duly elected and shall have qualified, or until his earlier death, resignation, or removal. The respective names, places of residence, and addresses of such directors are as follows:

Bernard P. Birnbaum Chairman	200 Powers Building Rochester, New York 14614
Saul I. Birnbaum Director	65 West 55th Street New York, New York 10019
Sol Feldman Director	1313 Mercedes Street Teaneck, New Jersey 07666
Manny Brucker, Director	51 Richard Drive Short Hills, New Jersey 07078

The principal officers of the surviving Corporation, each of whom shall hold office until his successor shall have been duly elected or appointed and shall have qualified or until his earlier death, resignation, or removal, and their respective offices,

places of residence, and post office addresses, are as follows:

Bernard P. Birnbaum  
Chairman of the Board

200 Powers Building  
Rochester, N. Y. 14614

Manny Brucker  
President

51 Richard Drive  
Short Hills, N. J. 07078

Sol Feldman  
Treasurer

1313 Mercedes Street  
Teaneck, N. J. 07666

Leonard W. Burrell  
Secretary

38 Crescent Terrace  
Belleville, N. J. 07109

6. On the effective date of the merger, the total amount of capital stock of the Surviving Corporation to be authorized, the number of shares into which the capital stock is to be divided, and the par value of the shares are as follows:

1000 shares authorized non-par voting common stock; 965 shares thereon to be issued to the present stockholders of Ceramics, 35 shares thereof to be issued to the present stockholders of Development. The Certificate of Incorporation of the Surviving Corporation shall be deemed amended in accordance with the terms and provisions hereof.

It is acknowledged and confirmed by the Board of Directors of the respective corporations that Faradyne Electronics Corp. is the stockholder of 100% of the issued and outstanding capital stock of Development and Ceramics and accordingly will be the owner of 100% of the issued and outstanding capital stock of Surviving Corporation.

7. Upon the issuance of the shares of capital stock, as provided hereinabove, in exchange for the shares of Development and Ceramics in the Surviving Corporation, the shares so surrendered to the Surviving Corporation shall be cancelled of record and appropriately marked in the stock ledger of the respective

corporations.

2. On the effective date of the merger Development shall cease to exist separately and shall be so merged with an into Ceramics in accordance with the provisions of the Agreement and in accordance with the provisions of and with the effect provided in Title 14A of the New Jersey Statutes (New Jersey Corporation Act), as amended, as made and provided. As provided therein, on the effective date of the merger, the Surviving Corporation shall possess all the rights, privileges, powers, franchises and trust and fiduciary duties, powers, and obligations, as well of a public as of a private nature, and be subject to all the restrictions, disabilities, and duties of each of the Constituent Corporations, and all and singular, the rights, privileges, powers, duties, and obligations, of each of the Constituent Corporations; and all property, real, personal, and mixed, and all debts due to either of the Constituent Corporations on whatever account, as well for stock subscriptions as all other things in action or belonging to each of the Constituent Corporations shall be vested in the Surviving Corporation; and all property, rights, privileges, powers, and franchises, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of the respective Constituent Corporations; and the title to any real estate, whether vested by deed or otherwise, in either of the Constituent Corporations shall not revert or be in any way impaired by reason of the merger; provided, however, that all rights of creditors and all liens upon any property of either of the Constituent Corporations shall be preserved unimpaired, and all debts, liabilities, and

duties of the respective Constituent Corporations shall thenceforth attach to the Surviving Corporation, and may be enforced against it to the same extent as if such debts, liabilities, and duties had been incurred or contracted by the Surviving Corporation.

9. From time to time, as and when requested by the Surviving Corporation or by its successors or assigns, Development will execute and deliver, or cause to be executed and delivered, all such deeds and other instruments; and will take or cause to be taken such further or other action as the Surviving Corporation may deem necessary or desirable in order to vest in and confirm to the Surviving Corporation title to and possession of all its property, rights, privileges, powers, and franchises and otherwise to carry out the intent and purposes of this Agreement.

10. The location of the principal office of the Surviving Corporation shall be 140 Little Street, Belleville, New Jersey. Registered agent Sol Feldman.

11. The Surviving Corporation hereby reserves the right to amend, alter, change, or repeal any provision contained in its Act of Incorporation, as from time to time amended, and any provision contained in the Agreement, in the manner now or hereafter prescribed by law or by such Act, as from time to time amended; and all rights and powers of whatsoever nature conferred in such Act of Incorporation, as from time to time amended, or herein, upon any stockholder, director, officer, or any other person are subject to this reservation.

IN WITNESS WHEREOF, Mansol Ceramics Company and Mansol



Development Corporation, have caused this Agreement to be signed in their corporate names by their respective Presidents or Vice-Presidents and their respective Secretaries or Assistant Secretaries under the seals of the corporations, all as of the day and year first above written.

Attest:

Leland W. Powell  
Secretary

MANSOL CERAMICS COMPANY

By Murray B. Rubin  
President

Attest:

Leland W. Powell  
Secretary

MANSOL DEVELOPMENT CORPORATION

By Murray B. Rubin  
President

CERTIFICATE OF SECRETARY OF MANSOL CERAMICS  
COMPANY, a corporation

This is to certify, as Secretary of MANSOL CERAMICS  
COMPANY, that the foregoing Agreement was adopted by a majority  
of the stockholders and directors of the corporation, on the  
6th day of January, 1970.

*Lemuel H. Powell*

Secretary

CERTIFICATE OF SECRETARY OF MANSOL DEVELOPMENT  
CORPORATION, a corporation

This is to certify, as Secretary of MANSOL DEVELOPMENT  
CORPORATION, that the foregoing Agreement was adopted by a  
majority of the stockholders and directors of the corporation,  
on the 6th day of January, 1970.

*Leonard W. Burrell*

Secretary

STATE OF NEW JERSEY:  
COUNTY OF *Essex* SS:

BE IT REMEMBERED that on this *22nd* day of January in the year One Thousand Nine Hundred and Seventy, before me, the subscriber, a Notary Public of New Jersey personally appeared *Leonard W. Russell* who, being by me duly sworn on his oath, doth depose and make proof to my satisfaction, that he is the Secretary of Mansol Development Corporation, that *Manny Russell* named in the within Instrument is the President of said corporation; that the execution, as well as the making of this Instrument has been duly authorized by a proper resolution of the Board of Directors of said corporation; that deponent well knows the corporate seal of said corporation; and the seal affixed to said Instrument is such corporate seal and was thereto affixed and said Instrument signed and delivered by said President, as and for his voluntary act and deed and as and for the voluntary act and deed of said corporation, in presence of deponent, who thereupon subscribed his name thereto as witness.

*Leonard W. Russell*  
Secretary

Sworn and subscribed before  
me,

at *Jersey City, N.J.*  
the date aforesaid

*Ethel Lieb*  
A Notary Public of New Jersey.

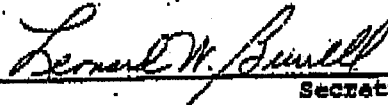
ETHEL LIEB  
NOTARY PUBLIC OF NEW JERSEY.  
My Commission Expires Nov. 7, 1974

JOINT RESOLUTION OF BOARD OF DIRECTORS  
and STOCKHOLDERS  
OF  
MANSOL CERAMICS COMPANY

At a special joint meeting of the Board of Directors  
of Mansol Ceramics Company, and upon motion made and duly carried,  
it was unanimously resolved that the following resolution be  
approved:

"BE IT RESOLVED, that the corporation be and hereby  
is authorized to act upon a Plan of Merger between Mansol  
Ceramics Company and Mansol Development Corporation,  
and the amendment of the Certificate of Incorporation,  
in accordance with the provisions of the Plan of Merger,  
and be it further

RESOLVED, that the President of the corporation be  
authorized to execute the Agreement of Merger, dated  
the 6th day of January, 1970, and to execute such other  
and further documents and Certificates as may be re-  
quired".

  
Secretary

JOINT RESOLUTION OF BOARD OF DIRECTORS  
and Stockholders  
of  
MANSOL DEVELOPMENT CORPORATION

At a special joint meeting of the Board of Directors  
of Mansol Development Corporation, and upon motion made and duly  
carried, it was unanimously resolved that the following resolution  
be approved:

"BE IT RESOLVED, that the corporation be and hereby is  
authorized to act upon a Plan of Merger between Mansol  
Development Corporation and Mansol Ceramics Company,  
and the amendment of the Certificate of Incorporation,  
in accordance with the provisions of the Plan of Merger,  
and be it further

RESOLVED, that the President of the corporation be  
authorized to execute the Agreement of Merger, dated  
the 6th day of January, 1970, and to execute such other  
and further documents and Certificates as may be re-  
quired".

*Lionel W. Powell*

Secretary

93199

FILED AND RECORDED

JAN 23 1970

Paul J. Higgins  
SHERIFF OF WISCONSIN

USAGE FEE 10.00  
RECORDING FEE 18.00  
RECORDING COST \_\_\_\_\_

SEC OF STATE  
TC - 10.00  
28.00

John J. Higgins  
140 E. Wisconsin St  
Milwaukee, Wis  
A-5102

NOTICE: This document contains the full and complete text of the original document as recorded in the office of the Recorder of Deeds for the State of Wisconsin on the date and at the place indicated hereon. The original document is on file in the office of the Recorder of Deeds for the State of Wisconsin.

THIS DOCUMENT IS A COPY OF THE ORIGINAL AS RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS FOR THE STATE OF WISCONSIN. THE ORIGINAL DOCUMENT IS ON FILE IN THE OFFICE OF THE RECORDER OF DEEDS FOR THE STATE OF WISCONSIN.

RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS FOR THE STATE OF WISCONSIN ON JANUARY 23, 1970 AT MILWAUKEE, WISCONSIN.

STATE OF WISCONSIN

OFFICE OF THE RECORDER OF DEEDS  
MILWAUKEE, WISCONSIN

A/c

NCB  
FILED

MAR 1 1994

AMENDED CERTIFICATE OF INCORPORATION  
OF  
MANSOL CERAMICS COMPANY

LONNA R. HOOKS  
Secretary of State

0919636

The undersigned hereby certifies that the following is an amendment to the certificate of incorporation of Mansol Ceramics Company (same being originally filed March 9, 1960), duly authorized by a vote of the shareholders all in accordance with N.J.S.A. 14A:9-2(4). In accordance with the requirements of N.J.S.A. 14A:9-4(a), the following information is set forth:

**FIRST:** The name of the corporation is Mansol Ceramics Company.

**SECOND:** The Certificate of Incorporation filed March 9, 1960 is hereby amended to change the name of the corporation to  
**TOTALTEL INC.**

**THIRD:** On February 4, 1994, Total-Tel USA Communications, Inc., the sole shareholder in the corporation, by unanimous consent of its Board of Directors, consented to the above amendment.

**FOURTH:** The effective date of this amendment shall be the date of the filing hereof.

IN WITNESS WHEREOF, the undersigned being duly authorized by the Board of Directors, and with the consent of the sole shareholder, does hereby set his hand and seal this 17 day of February, 1994.

ATTEST:

MANSOL CERAMICS COMPANY

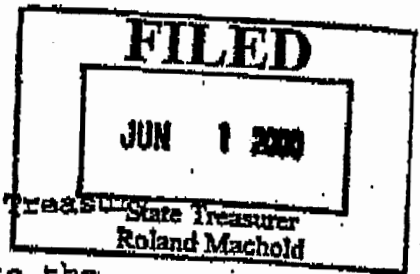
*Lonna R. Hooks*

*Warren H. Feldman*  
WARREN H. FELDMAN  
President &  
Chief Executive Officer

5639180000  
Y 093199



CGN



C-102A Rev 12/93

New Jersey Department of the Treasury  
Division of Revenue  
Certificate of Amendment to the  
Certificate of Incorporation  
(For Use by Domestic Profit Corporations)

Pursuant to the provisions of Section 14A:9-2 (4) and Section 14A:9-4 (3), Corporations, General, of the New Jersey Statutes, the undersigned corporation executes the following Certificate of Amendment to its Certificate of Incorporation:

1. The name of the corporation is: TOTALTEL, INC.
2. The following amendment to the Certificate of Incorporation was approved by the directors and thereafter duly adopted by the shareholders of the corporation on the 31<sup>st</sup> day of May, 2000:

Resolved, that Article FIRST of the Certificate of Incorporation be amended to read as follows:

FIRST: The name of the corporation is Covista, Inc.

3. The number of shares outstanding at the time of the adoption of the amendment was: Not Applicable  
The total number of shares entitled to vote thereon was: Not Applicable
4. The number of shares voting for and against such amendment is as follows:

Number of Shares  
Voting for Amendment  
Not Applicable

Number of Shares  
Voting Against Amendment  
Not Applicable

BY:   
A. John Leach, Jr.  
President

Dated this 31<sup>st</sup> day of May, 2000

797402  
1502100  
1502101

5639/80000

STATE OF NEW JERSEY  
DEPARTMENT OF TREASURY  
FILING CERTIFICATION (CERTIFIED COPY)

COVISTA, INC.

*I, the Treasurer of the State of New Jersey,  
do hereby certify, that the above named business  
did file and record in this department the below  
listed document(s) and that the foregoing is a  
true copy of the  
Certificate Of Incorporation  
Certificate Of Merger  
Certificate Of Amended  
Certificate Of Amendment  
as the same is taken from and compared with the  
original(s) filed in this office on the date set  
forth on each instrument and now remaining on file  
and of record in my office.*



IN TESTIMONY WHEREOF, I have  
hereunto set my hand and  
affixed my Official Seal  
at Trenton, this  
24th day of July, 2000

*Roland M. Machold*

Roland M. Machold  
Treasurer

**EXHIBIT B - CERTIFICATE OF AUTHORITY**

# State of South Dakota



## OFFICE OF THE SECRETARY OF STATE

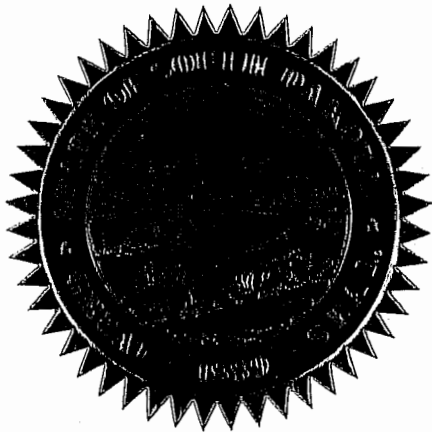
### Certificate of Authority

ORGANIZATIONAL ID #: FB027365

I, **Chris Nelson**, Secretary of State of the State of South Dakota, hereby certify that the Application for a Certificate of Authority of **CAPSULE COMMUNICATIONS, INC. (DE)** to transact business in this state duly signed and verified pursuant to the provisions of the South Dakota Corporation Acts, have been received in this office and are found to conform to law.

**ACCORDINGLY** and by virtue of the authority vested in me by law, I hereby issue this Certificate of Authority and attach hereto a duplicate of the application to transact business in this state.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this June 4, 2003.



*Chris Nelson*

Chris Nelson  
Secretary of State

**EXHIBIT C - MARKETING MATERIAL  
Not Available**

EXHIBIT D - FINANCIAL INFORMATION

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 10-K

(Mark one)

ANNUAL REPORT PURSUANT TO SECTION 13 OR 15 (d) OF THE SECURITIES  
EXCHANGE ACT OF 1934

For the Fiscal year ended January 31, 2003.

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES  
EXCHANGE ACT OF 1934 [NO FEE REQUIRED]

For the transition period from \_\_\_\_\_ to \_\_\_\_\_.

Commission File Number 0-2180

COVISTA COMMUNICATIONS, INC.  
(Exact name of Company as specified in its charter)

New Jersey  
(State or other jurisdiction of  
incorporation or organization)

22-1656895  
(I.R.S. Employer  
Identification No.)

721 Broad Street, Suite 200, Chattanooga, TN 37402  
(Address of principal executive offices)(Zip Code)

Company's telephone number, including area code: (423) 648-9700

Securities registered pursuant to Section 12 (b) of the Act:  
None

Securities registered pursuant to Section 12 (g) of the Act:  
Common Stock, \$.05 par value per share

Indicate by check mark whether Covista Communications, Inc. ("Covista" or the "Company")(1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that Covista was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of Company's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K

Aggregate market value (based upon a \$2.20 closing price) of the voting stock held by nonaffiliates of Covista as of May 1, 2003, \$12,722,820.

Number of shares of Common Stock outstanding on May 1, 2003: 17,783,092

Documents Incorporated By Reference:  
None

## PART I

### SPECIAL NOTE REGARDING FORWARD-LOOKING STATEMENTS:

Certain matters discussed in this Annual Report on Form 10-K are "forward-looking statements" intended to qualify for the safe harbor from liability provided by the Private Securities Litigation Reform Act of 1995. These forward-looking statements can generally be identified as such because the context of the statement will include words such as Covista "believes", "anticipates", "expects", or words of similar import. Similarly, statements, which describe Covista's future plans, objectives or goals, are also forward-looking statements. Such forward-looking statements are subject to certain risks and uncertainties, which are described in, close proximity to such statements and which could cause actual results to differ materially from those anticipated as of the date of this Report. Shareholders, potential investors and other readers are urged to consider these factors in evaluating the forward-looking statements and are cautioned not to place undue reliance on such forward-looking statements. The forward-looking statements included herein are only made as of the date of this Report and Covista undertakes no obligation to publicly update such forward-looking statements to reflect subsequent events or circumstances.

#### ITEM 1. Business

##### **General**

Covista is a long distance telecommunications, Internet and data services provider. Covista operates three distinct business segments: retail, KISSLD and wholesale. Retail is currently the largest segment and provides long distance, data and Internet services to small and medium sized businesses, principally in the Northeast region of the United States. KISSLD is a new segment started in Fiscal 2003, which targets residential users located in areas supported by network facilities. The wholesale segment sells long distance telecommunication services to other carriers for resale. Covista utilizes its own switching equipment and leased fiber optic transmission cable. Covista's products and services include a broad range of voice, data and Internet, including long distance and toll-free services, calling cards, data, Internet access, virtual private network, directory assistance and teleconferencing services. Covista currently operates five switches in various locations. In July 2001, Covista acquired long-term access to nationwide network facilities comprising 2,822,400,000 channel miles of telecommunications capacity measured by length of voice-grade circuits. Covista processes approximately 87.5 percent of all its call volume through its own facilities.

In the retail market, Covista has segmented potential customers and tailored its service offerings, sales, marketing approach and network development to provide service in a cost-effective manner. Covista applies a dedicated team approach to soliciting and servicing its commercial clients, with substantial involvement of sales, customer service and technical personnel in all aspects of customer relations. Covista intends to continue to maintain its retail marketing efforts on small to medium-sized businesses with sales of \$1 million to \$60 million and monthly communications bills that range from \$500 to \$30,000. KISSLD is a new segment that was launched during Fiscal 2003. This segment targets residential users with direct marketing campaigns. The Company expects the KISSLD segment to become the fastest growing of the three. The Company plans to introduce local services into the KISSLD segment during Fiscal 2004. Covista also maintains a wholesale segment.

During the fiscal year ended January 31, 2003, Covista completed the relocation of its corporate headquarters from Little Falls, New Jersey to Chattanooga, Tennessee and opened a new call center facility in Chattanooga, Tennessee. In addition, the Company operates a network operations center in Chattanooga to monitor and control its network and to coordinate its various services. On February 8, 2002, the Company acquired Capsule Communications, Inc. ("Capsule"), a telecommunications carrier providing long-distance telephone communications services to small and medium size business customers and residential customers generally located in the Mid-Atlantic region. Covista maintains sales offices in Paramus, New Jersey and Bensalem, Pennsylvania.

For Fiscal 2003, Covista had gross revenues of approximately \$101 million, derived approximately 75% from retail, 13% from KISSLD, and 12% from wholesale. For Fiscal 2002, Covista's gross revenues were approximately \$95 million. Prior to the Capsule acquisition and the introduction of KISSLD, Covista's retail sales activities historically were concentrated in New Jersey and New York City, where, Covista believes, approximately half of all United States multinational corporations have headquarters. The Capsule base expanded the Company's retail reach through the Mid-Atlantic States and the KISSLD segment will target customers throughout the United States. See Note 3 to the Consolidated Statements for segment information.

Covista's principal executive offices are located at 721 Broad Street, Suite 200, Chattanooga, TN, 37402, and its telephone number is (423) 648-9500.



## INDUSTRY OVERVIEW

### **History and Industry Development**

Prior to 1984, AT&T dominated both the local exchange and long distance marketplaces by owning the operating entities that provided both local exchange and long distance services to most of the United States population. Although long distance competition began to emerge in the late 1970s, the critical event triggering the growth of long distance competition was the breakup of AT&T and the separation of its local and long distance businesses as mandated by the Modified Final Judgment (the "MFJ") relating to the breakup of AT&T. To foster competition in the long distance market, the MFJ prohibited AT&T's divested local exchange businesses, the Regional Bell Operating Companies ("RBOCs"), from acting as single-source providers of telecommunications services.

The Telecommunications Act of 1996, (the "1996 Act"), is considered to be the most comprehensive reform of the nation's telecommunications laws, affect the development of competition for local telecommunications services. The 1996 Act provides for the removal of legal barriers to entry into the local telecommunications services market, the interconnection of the Incumbent Local Exchange Carrier (the "ILEC") network with competitors' networks and the relaxation of the regulation of certain telecommunications services provided by Local Exchange Carriers ("LECs") and others. Procedures and requirements were established to be followed by the RBOCs, including the requirement that RBOCs offer local services for resale as a precondition to their entering the long distance and telecommunications equipment manufacturing markets.

The continuing deregulation of the telecommunications industry and technological change has resulted in an increasingly information-intensive business environment. Regulatory, technological, marketing and competitive trends have substantially expanded Covista's opportunities in the converging voice and data communications services markets. For example, technological advances, including rapid growth of the Internet, the increased use of packet switching technology for voice communications, and the growth of multimedia applications, are expected to result in growth in the high-speed data services market.

This new market opportunity should permit Competitive Local Exchange Carriers ("CLECs") with operating and marketing expertise to offer a full range of telecommunications services, including local and long distance calling, toll-free calling, custom calling features, data services, and Internet access and services. Telecommunications companies with an established base of long distance customers may have an opportunity to sell additional services to such customers.

### **Network**

Covista's strategy has been to develop a geographic concentration of revenue-producing customers through the sale of telecommunications services in areas where it has installed switching platforms.

#### **Current Network**

*Switches.* Currently, Covista operates an advanced telecommunications network that includes five Alcatel switches, located in New York City, Philadelphia, Pennsylvania, Minneapolis, Minnesota, Dallas, Texas and Chattanooga, Tennessee. The Philadelphia switch was acquired upon the merger with Capsule Communications. The New York switch is an Alcatel Megahub DEX600E, which provides interexchange switching capabilities and is currently being used as Covista's international gateway switching platform.

In July 2001, Covista acquired long-term access to nationwide network facilities comprising 2,822,400,000 channel miles of telecommunications capacity measured by length of voice-grade circuits.

During Fiscal 2003, Covista billed approximately 1.45 billion minutes, with approximately 87.5% of its minutes carried over its own switches. Covista believes that increasing the traffic carried on its own network should improve operating margins.

*International.* Covista is interconnected with a number of United States and foreign wholesale international carriers through its New York switch. The purpose of connecting to a variety of carriers is to provide state-of-the-art, lowest-cost routing and network reliability. These interconnected international carriers have been a source of wholesale international traffic and revenue.

*Internet.* Currently, Covista owns and operates an IP (Internet Protocol) Network that includes two Cisco 7500 routers, located in New York City. Covista also owns and operates an Ascend TNT remote access server (RAS) located in New York. The RAS provides dial-up Internet access services. Through associations with providers of wholesale Digital Subscriber Lines ("DSL"), Covista offers DSL Internet service in the Philadelphia, New York, New Jersey and Connecticut markets. Covista also offers Internet services over dedicated DS0, DS1 and DS3 digital transmission circuits.

*Other Features.* Covista is interconnected by SS7 out-of-band digital signaling throughout its network. The SS7 signaling system reduces connect time delays, thereby enhancing overall network efficiencies. Additionally, the SS7 technology is designed to permit the anticipated expansion of Covista's Advanced Intelligent Network ("AIN") capabilities throughout its network. Covista's advanced switching platform would enable it to (i) deploy features and functions quickly throughout its entire network, (ii) expand switch capacity in a cost-effective manner, and (iii) lower maintenance costs through reduced training and spare parts requirements.

*Security and Reliability.* Covista has a Network Operating Center (NOC) in Chattanooga, Tennessee, which monitors and controls Covista's network and coordinates its various services from a central location, increasing the security, reliability and efficiency of Covista's operations. Centralized electronic monitoring and control of Covista's network allows Covista to avoid duplication of this function in each switch site. The NOC also helps reduce Covista's per-customer monitoring and customer service costs. In addition, Covista's network employs an "authorized access" architecture. Unlike many telecommunications companies, which allow universal access to their network, Covista utilizes an automatic number identification security screening architecture which ensures only the Automatic Number Identification (ANIs) of those users who have subscribed to Covista's services and have satisfied Covista's credit and provisioning criteria have access to the network. Covista believes that this architecture provides Covista the ability to better control bad debt and fraud in a manner, which is invisible and nonintrusive to the customer. This architecture also allows Covista to better manage network capacity, as unauthorized and unplanned users cannot access the network.

## PRINCIPAL PRODUCTS AND SERVICES

### **Product and Service Offerings**

*Retail Services.* Covista provides telecommunications services to over 152,000 commercial customers, primarily small and medium-sized businesses, located in the Northeastern region of the United States. Covista sells retail services through its independent marketing representatives and web based marketing programs. Retail services accounted for approximately \$75,455,000 or 75% of Covista's Fiscal 2003 total revenue. This compares to approximately \$47,423,000 of retail revenue in Fiscal 2002. The increase in retail revenue is a result of the acquisition of Capsule Communications.

Covista's retail services include the following:

- **Long Distance:** Covista offers a full range of switched and dedicated domestic and international long distance services, including "1+" outbound service in all 50 states along with global termination to over 200 countries. Long distance services include intra-LATA (Local Access Terminating Area), inter-LATA, and worldwide international services. Long distance features include both verified and non-verified accounting codes, station-to-station calling, third-party calling, directory assistance and operator-assisted calling.
- **Toll-free Services:** Covista offers a full range of switched and dedicated domestic toll-free services, including toll-free origination in all 50 states, international toll-free origination from over 30 countries, and toll-free directory assistance. AIN enhanced toll-free services include the following features: Command Routing, Dialed Number Identification Service Area Code/Exchange Routing, Real Time Automatic Number Identification Delivery, Day-of-Year Routing, Day-of-Week Routing, Time-of-Day Routing, Percentage Allocation Routing, PIN protected 800 services, integrated voice response services and store locator services.
- **Access Options:** Covista offers its long distance and toll-free customers multiple access options, including dedicated access at DS0, DS1, and DS3 speed(s) and switched access.
- **Calling Card and Services:** Covista offers nationwide switched access, customized calling card services. Customers have the option of calling cards, which are personalized, branded or generic.
- **Internet:** Covista currently offers high-quality, dedicated DSL and dial-up Internet access, e-mail, IP addressing and Domain Name Services.

- **Data Services:** Covista offers advanced data transmission services, including private line and Frame Relay services. Data services have multiple access options, including dedicated access at DS0, DS1, and DS3 speed(s) and switched access.
- **Customer Management Control Features:** All of Covista's customers have the option of customized management reporting features, including interstate/intrastate area code summaries, international destination matrix, daily usage summaries, state summaries, time of day summaries, duration distribution matrix, exception reporting of long duration calls, and incomplete and blocked call reporting.

*KISSLD.* During Fiscal 2003, Covista introduced a new business segment, KISSLD, a direct marketing program that targets residential customers located in areas supported by the existing company network. At year-end, over 58,000 customers were being billed on a monthly basis. KISSLD revenues accounted for \$12,990,000 or 13% of Covista's Fiscal 2003 total revenue.

*Wholesale Services.* Covista offers the following wholesale services: domestic and international termination, switch ports, colocation facilities and transport services to a broad spectrum of domestic and international carriers. Covista offers international wholesale termination and transport services primarily to domestic and international telecommunications carriers. Covista's wholesale results were severely affected by the September 11, 2001 terrorist attack. The Company suffered the temporary loss of its New York City switch, which is situated in the immediate vicinity of the World Trade Center. As a result, Covista incurred a significant reduction in wholesale revenues. The impact of the revenue loss, combined with additional expenses, was in excess of approximately \$14,000,000. Covista has filed an insurance claim for losses and expenses associated with the events of September 11, and received an initial \$1,000,000 in the FY 2002. The total claim and final settlement cannot be determined at this time. Wholesale revenues were approximately \$12,514,000 and \$47,889,000 during Fiscal 2003 and Fiscal 2002, respectively. Future wholesale revenues are expected to decline as management dedicates more focus and resources to the higher margin retail and KISSLD revenues.

## CUSTOMER BASE

### **Telecommunications Services Market**

*Overview of the United States Market.* The United States market for telecommunications services can be divided into four basic service sectors: long distance, local exchange, Internet access and international.

*Long Distance Services.* A long distance telephone call can be envisioned as consisting of three segments. Starting with the originating customer, the call travels along a local exchange network to a long distance carrier's point of presence ("POP"). At the POP, the call is combined with other calls and sent along a long distance network to a POP on the long distance carrier's network near where the call will terminate. The call is then sent from this POP along a local network to the terminating customer. Long distance carriers provide only the connection between the two local networks; and, unless the long distance carrier is a local service provider, pay access charges to LECs for originating and terminating calls.

*Local Exchange Services.* A local call is one that does not require the services of a long distance carrier. In general, the local exchange carrier connects end-user customers within a locally defined area known as a Local Access and Transport Area or "LATA" and also provides the local access (ingress and egress) of most long distance calls.

*Internet Service.* Internet services are generally provided in at least two distinct segments. A local network connection is required from the Internet Service Provider ("ISP") customer to the ISP's local facilities. For large, communication-intensive users and for content providers, the connections are typically unswitched, dedicated connections provided by LECs, Intelligent Call Processing ("ICP"), or other providers, either as independent service providers or, in some cases, by a carrier that is both a Competitive Local Exchange Carrier (CLEC) and an Internet Service Provider (ISP). For residential and small and medium-sized business users, these connections are generally Public Switched Telephone Network ("PSTN") connections obtained on a dial-up access basis as a local exchange telephone call. Once a local connection is made to the ISP's local facilities, information can be transmitted and obtained over a packet-switched IP data network, which may consist of segments provided by many interconnected networks operated by a number of ISPs. The collection of interconnected networks makes up the Internet. A key feature of Internet architecture and packet switching is that a single dedicated channel between communication points is never established which distinguishes Internet-based services from the PSTN.

*International Service.* A typical international long distance call originates on a local exchange network or private line and is carried to the international gateway switch of a long distance carrier. The call is then transported along a fiber optic cable or a satellite connection to an international gateway switch in the terminating country and, finally, to another local exchange network or private line where the call is terminated. Generally, only a small number of carriers are licensed by a foreign country for international long distance and, in many countries, only the Postal Telephone & Telegraph administration ("PTT") is licensed or authorized to provide international long distance service. Any carrier which desires to transport switched calls to or from a particular country, in addition to obtaining a license or other permission (if required), must enter into operating agreements or other arrangements with the PTT or another international carrier in that country or lease capacity from a carrier which already has such arrangements.

## **Market Opportunities**

As a result of the 1996 Act and other Federal, state, and international initiatives, numerous telecommunications markets have been opened to competition. In addition, the increasing globalization of the world economy, along with increased reliance upon data transmission and Internet access, has expanded traditional telecommunications markets. Covista has targeted its services principally to small and medium-sized businesses based upon its belief that such customers are not aggressively targeted by Tier I providers and are underserved with respect to customer service and support. Covista is also targeting residential long distance users with competitive rates for domestic and international long distance usage and plans to offer Local Exchange Services to residential users during FY2004.

## COMPETITION

### **Overview**

Covista operates in a highly competitive industry and estimates that it has less than a 1% share of the market in which it operates. Covista expects that competition will continue to intensify in the future due to regulatory changes, including the continued implementation of the 1996 Act, and further increases in the size, resources, and number of market participants. In each of its markets, Covista will face competition from larger, better capitalized Tier I and Tier II providers and ILECs and CLECs. While new business opportunities may be made available to Covista through the 1996 Act and other federal and state regulatory initiatives, regulators are likely to provide ILECs with an increased degree of flexibility with regard to pricing of their services as competition increases.

Competition for Covista's products and services is based upon price, quality, the ability to bundle services, name recognition, network reliability, service features, billing services, perceived quality and responsiveness to customers' needs. While Covista believes that it currently has certain advantages relating to price, quality, customer service and responsiveness to customer needs, there is no assurance that Covista will be able to maintain these advantages or obtain additional advantages. A continuing trend toward business combinations and alliances in the telecommunications industry may create significant new competitors to Covista. Many of Covista's existing and potential competitors have financial, technical, and other resources significantly greater than those of Covista. In addition, in December, 1997, the FCC issued rules to implement the provisions of the World Trade Organization Agreement on Basic Telecommunications, which was drafted to liberalize restrictions on foreign ownership of domestic telecommunications companies and to allow foreign telecommunications companies to enter domestic markets. The new FCC rules went into effect in February 1998 and are expected to make it substantially easier for many non-United States telecommunications companies to enter the United States market, thus further increasing the number of competitors. The new rules will also give non-United States individuals and corporations greater ability to invest in United States telecommunications companies, thus increasing the financial and technical resources potentially available to existing and potential competitors as well as Covista.

The effects of recent financial restructuring of major competitors (WorldCom, Global Crossing and others) could allow these companies to reduce retail prices, thereby increasing competitive pressure on the Company.

## **Long Distance Market**

The long distance telecommunications industry is highly competitive and affected by the introduction of new services by, and the market activities of, major industry participants. Covista competes against various national and regional long distance carriers, including both facilities-based providers and switchless resellers offering essentially the same services as Covista. In addition, significant competition is expected to be provided by ILECs including RBOCs. The RBOC's have been authorized to provide long distance services in certain states. Covista's success will depend upon its ability to provide high-quality services at prices competitive with, or lower than, those charged by its competitors. In addition, a high level of customer attrition or "churn" has characterized the long distance industry. Such attrition is attributable to a variety of factors, including initiatives of competitors as they engage in advertising campaigns, marketing programs, and provide cash payments or other incentives. End users are often not obligated to purchase any minimum usage amount and can discontinue service without penalty at any time. Covista's revenue has been, and is expected to continue to be, affected by churn.

Tier I providers and other carriers have implemented new price plans aimed at residential customers with significantly simplified rate structures, which may have the impact of lowering overall long distance prices. There can also be no assurance that long distance carriers will not make similar offerings available to the small to medium-sized businesses, which Covista primarily serves. While Covista believes that small and medium-sized business customers are not aggressively targeted by large long distance providers, such as the Tier I providers, there can be no assurance that Covista's customers and potential customers will not be targeted by these or other providers in the future. Additional pricing pressure may come from IP transport, which is a developing use of packet-switched technology, which can transmit voice communications at a cost, which may be below that of traditional circuit-switched long distance service. While IP transport is not yet available in all areas, its use requires the dialing of additional digits. While the service has generally produced sound quality inferior to traditional long distance service, it could eventually be perceived as a substitute for traditional long distance service. This, in turn, could put further pricing pressure on long distance rates. Any reduction in long distance prices may have a material adverse effect on Covista's business, financial condition and results of operations.

Some of Covista's principal competitors are also major suppliers of services to Covista. Covista both links its switching equipment with transmission facilities and services purchased or leased from these suppliers, and also resells services obtained from these suppliers. There can be no assurance that these suppliers will continue to offer services to Covista at competitive rates or on attractive terms, if at all, and any failure to do so could have a material adverse effect on Covista.

## **Seasonal Nature of Business**

The Company's business is not seasonal.

## **Patents, Trademarks, Licenses, etc.**

The Company does not hold any material patents, franchises or concessions.

## GOVERNMENT REGULATIONS

### **Overview**

Covista's services are subject to regulation by federal, state and local governmental agencies. The FCC exercises jurisdiction over all facilities and services of telecommunications common carriers to the extent those facilities are used to provide, originate or terminate interstate or international communications. State regulatory agencies retain jurisdiction over carriers' facilities and services to the extent they are used to originate or terminate intrastate communications. Municipalities and other local government agencies may require carriers to obtain licenses or franchises regulating use of public rights-of-way necessary to install and operate their networks. The networks are also subject to numerous local regulations such as building codes, franchises, and rights of way licensing requirements. Many of the regulations issued by these regulatory bodies may be subject to judicial review, the results of which Covista is unable to predict.

## Federal Regulations - The 1996 Act

*Statutory Requirements.* The 1996 Act requires all LECs (including ILECs and CLECs) (i) not to prohibit or unduly restrict resale of their services; (ii) to provide local number portability; (iii) to provide dialing parity and nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listings; (iv) to afford access to poles, ducts, conduits, and rights-of-way; and (v) to establish reciprocal compensation arrangements for the transport and termination of local telecommunications traffic. It also requires ILECs to negotiate local interconnection agreements in good faith and to provide interconnection (a) for the transmission and routing of telephone exchange service and exchange access, (b) at any technically feasible point within the ILEC's network, (c) which is at least equal in quality to that provided by the ILEC to itself, its affiliates, or any other party to which the ILEC provides interconnection, and (d) at rates and terms and conditions which are just, reasonable and nondiscriminatory. ILECs also are required under the 1996 Act to provide nondiscriminatory access to network elements on an unbundled basis at any technically feasible point, to offer their local telephone services for resale at wholesale rates, and to facilitate colocation of equipment necessary for competitors to interconnect with or access Unbundled Network Elements ("UNEs").

The 1996 Act also eliminates the existing AT&T antitrust consent decree, which barred the provision of long distance services and manufacturing by the RBOCs. In addition, the 1996 Act requires RBOCs to comply with certain safeguards and offer interconnection, which satisfies a prescribed 14-point competitive checklist before RBOCs are permitted to provide in-region inter-LATA services. These safeguards are designed to ensure that the RBOCs competitors have access to local exchange and exchange access services on nondiscriminatory terms and that the subscribers of regulated non-competitive RBOC services do not subsidize their provision of competitive services. The safeguards also are intended to promote competition by preventing RBOCs from using their market power in local exchange services in order to obtain an anti-competitive advantage in the provision of other services. RBOCs have the ability to provide out-of-region long-distance services and, if they obtain authorization and under prescribed circumstances, may provide additional in-region long-distance services. In December 1999, the FCC granted Bell Atlantic's (now Verizon) application to offer in-region long distance services in New York, marking the first time since the breakup of AT&T that an RBOC has been able to provide its customers with both local and long distance service.

The 1996 Act also granted important regulatory relief to industry segments, which compete with CLECs. ILECs were given substantial new pricing flexibility. RBOCs also were granted new rights to provide certain cable TV services. Inter Exchange Carriers ("IXCs") were permitted to construct their own local facilities and/or resell local services. State laws may no longer require CATVs to obtain a franchise before offering telecommunications services nor permit CATVs' franchise fees to be based on their telecommunications revenue. In addition, under the 1996 Communications Act, all utility holding companies are permitted to diversify into telecommunications services through separate subsidiaries.

*FCC Rules Implementing the Local Competition Provisions of the 1996 Act.* In August 1996, the FCC released a First Report and Order, a Second Report and Order and a Memorandum Opinion and Order (combined, the "Interconnection Orders") which established a framework of minimum, national rules enabling state Public Utility Commissions ("PUCs") and Public Service Commissions ("PSCs"), and the FCC to begin implementing many of the local competition provisions of the 1996 Act. In its Interconnection Orders, the FCC prescribed certain minimum points of interconnection necessary to permit competing carriers to choose the most efficient points at which to interconnect with the ILECs' networks. The FCC also adopted a minimum list of UNEs that ILECs must make available to competitors upon request and a methodology for states to use in establishing rates for interconnection and the purchase of UNEs. The FCC also adopted a methodology for States to use when applying the 1996 Act "avoided cost standard" for setting wholesale prices with respect to retail services.

The U.S. Supreme Court affirmed the authority of the FCC to establish rules governing interconnection. Covista believes that additional disputes regarding interconnection issues and other related FCC actions are likely. In particular, the Supreme Court remanded to the FCC issues regarding what UNEs the FCC will require ILECs to make available to competitors. In November 1999, the FCC released a decision modifying the list of UNEs which all ILECs must offer to other carriers. The Eighth Circuit decisions and their reversal by the Supreme Court continue to cause uncertainty about the rules governing the pricing, terms and conditions of interconnection agreements. The Supreme Court's ruling and further proceedings on remand (either at the Eighth Circuit or the FCC) may affect the scope of the PUCs' and PSCs' authority to conduct arbitration proceedings or to implement or enforce interconnection agreements. The ruling could also result in new or additional rules being promulgated by the FCC. Given the ongoing uncertainty surrounding the effect of the Eighth Circuit decisions and the decision of the Supreme Court reversing them, Covista may not be able to obtain or enforce interconnection terms acceptable to it or that are consistent with its business plans.

## Other Federal Regulations

In general, the FCC has a policy of encouraging the entry of new competitors in the telecommunications industry and preventing anti-competitive practices. Therefore, the FCC has established different levels of regulation for dominant carriers and non-dominant carriers. For purposes of domestic common carrier telecommunications regulation, large ILECs are currently considered dominant carriers, while CLECs are considered non-dominant carriers.

- **Tariffs.** As a non-dominant carrier, Covista may install and operate facilities for the transmission of domestic interstate communications without prior FCC authorization. Services of non-dominant carriers have been subject to relatively limited regulation by the FCC, primarily consisting of the filing of tariffs and periodic reports. However, non-dominant carriers like Covista must offer interstate services on a nondiscriminatory basis, at just and reasonable rates, and remain subject to FCC complaint procedures. With the exception of informational tariffs for operator-assisted services and tariffs for interexchange casual calling services, the FCC has ruled that IXCs must cancel their tariffs for domestic interstate interexchange services. Tariffs continue to be required for international services. Pursuant to these FCC requirements, Covista has filed and maintains tariffs for its interstate services with the FCC. All of the interstate access and retail "basis" services (as defined by the FCC) provided by Covista are described therein. "Enhanced" services (as defined by the FCC) need not be tariffed. Covista believes that its proposed enhanced voice and Internet services are "enhanced" services, which need not be tariffed. However, the FCC is reexamining the "enhanced" definition as it relates to IP transport and Covista cannot predict whether the FCC will change the classification of such services.
- **International Services.** Non-dominant carriers such as Covista are required to obtain FCC authorization pursuant to Section 214 of the Communications Act and file tariffs before providing international communication services. Covista has obtained authority from the FCC to engage in business as a resale and facilities-based international carrier to provide voice and data communications services between United States and all foreign points.
- **Access Charges.** Over the past several years, the FCC has granted ILECs significant flexibility in their pricing of interstate special and switched access services. Under this pricing scheme, ILECs may establish pricing zones based on access traffic density and charge different prices for each zone. Covista anticipates that this pricing flexibility should result in ILECs lowering their prices in high traffic density areas, the probable area of competition with Covista. Covista also anticipates that the FCC will grant ILECs increasing pricing flexibility as the number of interconnections and competitors increases. In May 1997, the FCC took action to reform the current interstate access charge system. The FCC adopted an order which makes various reforms to existing rate structures for interstate access designed to move access charges, over time, to more economically efficient rate levels and structures. The FCC recently granted ILECs additional pricing flexibility. As such, the carriers may offer volume discounts, which may benefit larger long distance carriers.

The FCC has also implemented changes in interstate access rules that result in restructuring of the access charge system and changes in access charge rate levels. As of January 1998, access charges incurred by Covista are being passed on to end-users. In May 1999, the U.S. Court of Appeals (D.C. Circuit) sent the access rate formula back to the FCC for further explanation regarding how certain factors were calculated. These and related actions may change access rates. If the formula is upheld, and access rates are reduced, the result will be a lower cost of providing long distance service, especially to business customers. The impact of these new changes will not be known until they are fully implemented over the next several years. In a related proceeding, the FCC has adopted changes to the methodology by which access has been used in part to subsidize universal telephone service and other public policy goals. Telecommunications providers like Covista pay fees calculated as a percentage of revenue to support these goals. The full implication of these changes remains uncertain and subject to change.

- **PICC.** As part of Access Reform mandated in the Telecommunications Act of 1996, beginning in 1998, local phone companies were permitted to assess the Pre-subscribed Interexchange Carrier Charge, also known as "PICC." The "PICC" is a monthly per line cost charged by the local telephone company to every long distance carrier for each multi-line business phone line that is pre-subscribed to that carrier. PICC charges are billed to the commercial end users.

- **Universal Service Reform.** In May 1997, the FCC released an order which reforms the current system of interstate universal service support and implements the universal service provisions of the 1996 Act. The FCC established a set of policies and rules designed to ensure that low-income consumers and consumers who live in rural, insular and high-cost areas receive a defined set of local telecommunications services at affordable rates. This was to be accomplished in part through expansion of direct consumer subsidy programs and in part by ensuring that rural, small and high-cost LECs continue to receive universal service subsidy support. The FCC also created new programs to subsidize connection of telecommunications networks to eligible schools, libraries and rural health care providers. These programs were to be funded by assessment of eligible revenue of nearly all providers of interstate telecommunications carriers, including Covista.

In October 1999 the FCC adopted a new high-cost universal service support mechanism for non-rural carriers. The new mechanism is based on the forward-looking costs of providing supported services as determined by the Commission's cost model. The forward-looking support mechanism provides support to non-rural carriers in those states that have a statewide average forward-looking cost per line greater than the national benchmark, which is set at 135 percent of the national average forward-looking cost per line. The FCC's decisions regarding universal service could have a significant impact on future operations of Covista.

- **Colocation.** In March 1999, the FCC released its Colocation Order, which requires ILECs to permit CLECs to colocate any equipment used for interconnection or access to unbundled network elements even if that equipment includes switching or enhanced service functions. Among other things, the Colocation Order also prohibits ILECs from placing any limits on the use of switching or enhanced features for collocated equipment, and requires ILECs to make cageless colocation available and permit CLECs to construct their own cross-connect facilities.

In March, 2000, the U.S. Court of Appeals for the District of Columbia Circuit vacated limited portions of the Colocation Order, holding certain definitions contained in FCC rules were impermissibly broad. The Court remanded the Colocation Order, in part, for further FCC consideration of these issues.

- **Line Sharing.** In November, 1999, the FCC adopted a new order requiring ILECs to provide line sharing, which will allow CLECs to offer data services over the same line the consumer uses for voice services, without the CLECs being required to offer the voice services. State commissions have been authorized to establish the prices to the CLECs for such services. The decision has been appealed.

#### State Regulation

Some states in which Covista operates are considering legislation, which could impede efforts by new entrants in the local services market to compete effectively with ILECs. This legislation could adversely impact the Company's plans to launch local services in FY2004.

#### **Compliance with Environmental Provisions**

The Company believes that it complies in all material respects with current pertinent federal, state, and local provisions relating to the protection of the environment and does not believe that continued compliance would require any material capital expenditure.

#### **Recent Development**

Effective April 16, 2003, Covista executed a revolving credit and security agreement along with related documents that provide the Company with an \$8 million revolving loan of which \$7 million is currently available. The remaining \$1 million becomes available upon Covista maintaining twelve consecutive months of positive cash flow as defined in the agreement. This thirty-six month facility allows the Company to borrow funds based on a portion of eligible customer accounts receivable and bears interest at the Prime Rate plus 2.00% with a floor of 6.25%. Interest, unused line and collateral management fees are payable monthly in arrears. Covista is required to maintain certain covenants that include cash velocity, and fixed charge coverage ratios as defined in the agreement. The loan is secured by all of the Company's assets. Initial loan proceeds were used to payoff the Wells Fargo facility in full.



## PERSONNEL

As of the April 15, 2003, Covista and its subsidiaries employed 263 full-time and part-time employees in its long distance telecommunication business, of whom 21 were engaged in sales activities, 106 in customer service and support, 30 in technical and field services, 29 in data processing, and 77 in general and administrative activities. Covista also utilizes the services of approximately 2,200 independent sales agents. Covista considers its relations with its employees to be satisfactory.

### ITEM 2. Properties

On November 15, 1993, and December 28, 1993, Covista entered into leases for an aggregate of approximately 3,500 square feet of space at 744 Broad Street, Newark, New Jersey, for its switching equipment. The lease ran from January 1, 1994 through December 31, 1998, with an option to renew the lease through August 31, 2002, which has been exercised. The annual rental of \$63,200 also requires the tenant to pay a proportionate share of any increase in the "Consumer Price Index", U. S. City Average over the base year. Covista has also renewed this lease on a month-to-month term while the switching components are relocated to Miami, Florida. This should be completed during FY2004

On February 22, 1994, Covista entered into a lease, subsequently modified on April 15, 1994, for approximately 17,700 square feet of space at 150 Clove Road, Little Falls, New Jersey to be used as sales, executive and administrative offices. The lease provided for a rent holiday until July, 1995, after which the annual rental would be approximately \$360,000. The lease is for five years and ten months and has been amended by a second lease modification agreement dated February 9, 1995 whereby Covista leased approximately 6,700 additional square feet of space at the same location at an additional annual rental of \$121,707 for the first four years and \$138,154 for the next year and two months. The modified agreement also extended the term of the existing lease for an additional two years to August 14, 2002 at a then annual rental of \$563,000. The lease required the payment of the tenant's proportionate share of operating expenses and real estate tax increases over the base year. This lease was not renewed on expiration.

On November 1, 1996, Covista entered into a lease for approximately 8,300 square feet of space at 40 Rector Street, New York City, New York, for use as a second switching facility. The term of the lease is for fifteen years and ten months from the date of commencement, which was March 1, 1997. Rental payments are \$163,918 per annum for the first five years after commencement, \$166,480 per annum for the next five years, and \$183,128 per annum for the remaining five years and ten months. The lease requires the payment of the tenant's proportional share of increased operating expenses and real estate taxes over the base year.

On January 30, 1997, Covista entered into a third modification of its lease for approximately 16,640 square feet of additional office space at its existing facility at 150 Clove Road, Little Falls, New Jersey. The annual rental on the additional space was \$357,760 per annum from July 1, 1997 through February 14, 1998, was \$366,800 per annum from February 15, 1998 through August 14, 2000, and was \$384,820 per annum from August 15, 2000 through August 14, 2002. In addition, Covista was obligated for its proportionate share of increases in real estate taxes and operating expenses over the base year. This lease was not renewed on expiration.

On February 6, 1998, Covista entered into a lease for approximately 5,000 square feet of space at 28 W. Flagler Street, Miami, Florida. The term of the lease is 15 years, commencing February 1, 1998. The annual rental is approximately \$116,160, with an annual adjustment based on the Revised Urban Wage Earners and Clerical Workers Index, capped at a maximum of 3% increase over the prior year's rental payment. In addition, Covista is liable for its proportionate share of increases in real estate taxes and operating expenses over the base year. Covista sublet this space on January 1, 2000 for the balance of its term, to another tenant at an annual rate of approximately \$116,160, subject to adjustments. The subtenant has defaulted on the sublease and Covista is currently moving switching equipment from the Newark, New Jersey facility to this location. That move should be complete during FY2004.

On August 20, 1999, Covista entered into a three year lease, commencing August 20, 1999 for 2,770 square feet of space at 20 Crossways Park North, Woodbury, New York. Rental payments were \$62,235 per annum from October 1, 1999 to August 31, 2000, and were \$64,818 from September 1, 2000 to August 31, 2001 and \$67,422 from September 1, 2001 to August 31, 2002. The lease required the payment of the tenant's proportionate share of increased operating expenses and real estate taxes over the base year. Covista has not renewed this lease on expiration.

On November 17, 1999, Covista entered into a three-year lease, commencing November 17, 1999 for 2,186 square feet of space at One Landmark Square, Stamford, Connecticut. Rental payments were \$50,278 per annum from November 17, 1999 to November 16, 2000, are \$51,371 from November 17, 2000 to November 16, 2001, and \$51,556 from November 17, 2000 to November 16, 2002. There was an option to renew for three years, upon nine months' prior written notice. The lease required the payment of the tenant's proportionate share of increased operating expenses and real estate taxes over the base year. Covista has not renewed this lease on expiration.

On October 11, 1999, Covista entered into a three year lease, commencing October 11, 1999 leasing 1,926 square feet of space at 1810 Chapel Avenue West, Cherry Hill, New Jersey. Rental payments were \$38,520 per annum from October 11, 1999 to October 31, 2002. There was an option to renew for three years, upon nine months' prior written notice. The lease required the payment of the tenant's proportionate share of increased operating expenses and real estate taxes over the base year. Covista has not renewed this lease on expiration.

On September 1, 2001, Covista entered into a lease agreement for approximately 28,000 square feet of office space in Chattanooga, Tennessee, with Henry G. Luken III, Chairman of the Board, and a principal shareholder of Covista. The term of the lease is for five years. The lease provides for annual rent of \$86,400 from September 1, 2001 to August 30, 2002; \$115,200 from September 1, 2002 to August 30, 2003; \$144,000 from September 1, 2003 to August 30, 2004, with the last two years to be \$144,000 annually adjusted for the Consumer Price Index. Covista believes that such premises are leased on terms not less favorable than an arm's length transaction.

On December 1, 2001, Covista entered into a lease for property located at 806 East Main Street, Chattanooga, Tennessee, for use as a switching facility. The lessor is Henry G. Luken III, Chairman of the Board and a principal shareholder of Covista. The lease expires on November 30, 2006. Annual rent is payable as follows: \$22,500 from December 1, 2001 to November 30, 2002, \$27,000 from December 1, 2002 to November 30, 2003, \$31,500 from December 1, 2003 to November 30, 2004, and \$36,000 from December 1, 2004 to November 30, 2005. Rental amounts for months beginning after October 1, 2005 will be adjusted upward for the U.S. Consumer Price Index. The lease may be renewed for an additional 5 years upon 90 days' written notice prior to the lease expiration date. Covista believes that such premises are leased on terms not less favorable than an arm's length transaction.

On December 15, 2001, Covista entered into a lease for Suite 1350, 1201 Main Street, Dallas, TX, for use as a switching facility and expires on April 14, 2006. Annual rent is due as follows: \$164,475 from April 15, 2000 to April 14, 2002, \$175,440 from April 15, 2002 to April 14, 2004, and \$186,405 from April 15, 2004 to April 14, 2006. The lease has no provision for renewal.

On February 8, 2002, Covista assumed a lease for Suite 940, 401 N. Broad Street, Philadelphia, PA, for use as a switching facility. Covista's obligations under this lease commenced with the purchase of Capsule Communications. The lease expires on March 31, 2007. Base rent is \$62,019 annually, with provisions for inflationary increases in operating costs. The lease has no provision for renewal.

On February 8, 2002, Covista assumed a lease for Suite 275, 3331 Street Road, Bensalem, PA, for use as a branch office facility. Covista's obligations under this lease commenced with the purchase of Capsule Communications. The lease expires on August 31, 2004. Annual rent is payable as follows: \$237,575 from September 1, 2001 to August 31, 2002, \$243,012 from September 1, 2002 to August 31, 2003, \$248,448 from September 1, 2003 to August 31, 2004. Covista has no right to further extend or renew the term of the lease.

On May 31, 2002, Covista entered into a lease for 2,900 useable (3,335 rentable) square feet at 511-11<sup>th</sup> Avenue South, Suite 312, Minneapolis, Minnesota for use as a switching facility. The lease expires on May 31, 2009. Annual rent is payable as follows: Year 1 = \$86,376, Year 2 = \$93,047, Year 3 = \$96,382, Year 4 = \$99,717, Year 5 = \$103,052, Year 6 = \$106,387, and Year 7 = \$109,721. The lease may be renewed for an additional 5 years upon 4 months' written notice prior to the lease expiration date. Covista pays its proportionate share of real estate taxes and utilities for the leased space.

On August 15, 2002, Covista entered into a lease for approximately 3,700 square feet of the 5<sup>th</sup> Floor at 1 Mack Drive, Paramus, NJ for use as a branch office facility. The lease expires on July 31, 2005 with annual fixed rent due of \$85,859. Additional rent of 1.07% is paid for operating costs, subject to adjustment for escalation.

On October 1, 2002, Covista entered into a lease for Suite 200 at 721 Broad Street, Chattanooga, Tennessee, for use as offices for Corporate Headquarters. The lessor is Henry G. Luken III, Chairman of the Board and a principal shareholder of Covista. The lease expires on November 30, 2007. Annual rent is payable as follows: Year 1 = \$101,674, Year 2 = \$111,670, Year 3 = \$120,000, Year 4 = \$120,000, Year 5 = \$120,000. Rental amounts for months beginning after October 1, 2005 will be adjusted upward for the U.S. Consumer Price Index. The lease may be renewed for an additional 5 years upon 90 days' written notice prior to the lease expiration date. Covista believes that such premises are leased on terms not less favorable than an arm's length transaction.

ITEM 3. Pending Legal Proceedings

There are no pending legal proceedings, which could be expected to have a material adverse effect on Covista.

ITEM 4. Submission of Matters to a Vote of Security Holders

A proxy statement dated November 19, 2002 and mailed to stockholders on or about November 20, 2002 provided details on the election of eight directors to serve for a term of one year and until their successors were duly elected and qualified; a proposal to issue and sell up to 4,360,000 shares of the Company's Common Stock to Henry G. Luken III, Chairman of the Board of Directors of the Company, or a limited number of persons designated by Mr. Luken; adoption of the 2002 Equity Incentive Plan; Ratification of the selection of Deloitte & Touche LLP as independent auditors of the Company for the fiscal year ending January 31, 2003; and the transaction of such other business as may properly come before the meeting or any adjournment or postponement thereof. During the scheduled annual meeting of stockholders on December 19, 2002, all of the foregoing matters were approved by the requisite vote of stockholders of Covista.

## PART II

### ITEM 5. Market for Company's Common Stock and Related Security Holder Matters

#### **Common Stock**

Covista's authorized capital stock consists solely of 50,000,000 shares of Common Stock. Holders of Covista's Common Stock are entitled to receive such dividends, if any, as may be declared from time to time by the Board of Directors in its discretion from funds legally available therefore. Each holder of Common Stock is entitled to one vote for each share held. There is no right to cumulative voting. Upon liquidation, dissolution, or winding up of Covista, the holders of Common Stock are entitled to receive a pro rata share of all assets available for distribution to stockholders. The Common Stock has no pre-emptive or other subscription rights, and there are no conversion or redemption rights with respect to such shares.

As of the date of this report, there were 17,783,092 shares of Common Stock issued and outstanding, held by approximately 860 persons.

#### **Price Range of the Common Stock**

Covista's Common Stock is traded on the NASDAQ National Market System under the Symbol CVST. The following table sets forth, for the quarterly fiscal periods indicated, the high and low closing sale prices for Covista's Common Stock in such market, as reported by the National Association of Securities Dealers, Inc.

<u>FISCAL 2002</u>	<u>HIGH</u>	<u>LOW</u>
February 1, 2001 thru April 30	\$ 6.188	\$ 1.547
May 1 thru July 31	\$ 7.25	\$ 3.25
August 1 thru October 31	\$ 10.25	\$ 4.50
November 1 thru January 31, 2002	\$ 10.25	\$ 5.62
<u>FISCAL 2003</u>	<u>HIGH</u>	<u>LOW</u>
February 1, 2002 thru April 30	\$ 8.15	\$ 3.90
May 1 thru July 31	\$ 5.15	\$ 2.83
August 1 thru October 31	\$ 4.17	\$ 2.00
November 1 thru January 31, 2003	\$ 3.97	\$ 2.01

Covista has not paid or declared any cash dividends during the past two fiscal years and does not anticipate paying any in the foreseeable future.

## Compensation Plans and Securities

The following table sets forth certain information as of January 31, 2003 with respect to compensation plans under which equity securities of the Company are authorized for issuance:

Plan Category	Number of Securities to be Issued Upon Exercise of Outstanding Options, Warrants and Rights	Weighted-Average Exercise Price of Outstanding Options, Warrants and Rights	Number of Securities Remaining Available for Future Issuance Under Equity Compensation Plans (1)
Equity compensation plans approved by security holders	1,673,556	\$3.90	1,261,510
Equity compensation plans not approved by security holders	0	0	0
Total	1,673,556	\$3.90	1,261,510

- (1) Under all plans, if any shares subject to a previous award are forfeited, or if any award is terminated without issuance of shares or satisfied with other consideration, the shares subject to such award shall again be available for future grants.

ITEM 6. Selected Financial Data

(In thousands except per share amounts)

Year ended January 31,

<u>RESULTS OF OPERATIONS:</u>	<u>2003</u>	<u>2002</u>	<u>2001</u>	<u>2000</u>	<u>1999</u>
Net Revenues	\$100,960	\$ 95,313	\$ 133,230	\$ 139,760	\$137,283
Net Loss	\$ (9,407)	\$ (11,970)	\$ (8,629)	\$ (9,414)	\$ (3,418)
Weighted average common shares outstanding					
Basic	13,283	10,204	7,324	7,069	6,818
Diluted	13,283	10,204	7,324	7,069	6,818
Loss per common and equivalent shares					
Basic loss per share	\$ (0.71)	\$ (1.17)	\$ (1.18)	\$ (1.33)	\$ (0.50)
Diluted loss per share	\$ (0.71)	\$ (1.17)	\$ (1.18)	\$ (1.33)	\$ (0.50)
Cash dividends per common share	None	None	None	None	None
Additions to property and equipment	\$4,943(b)	\$ 5,465	\$ 3,227	\$ 3,019	\$ 4,727
Depreciation and amortization	\$7,442	\$ 4,569	\$ 3,578	\$ 2,985	\$ 2,785
<u>FINANCIAL POSITION:</u>					
Working Capital	\$ (9,536)	\$ (11,327)	\$ (7,734)	\$ 1,222	\$ 1,261
Property and equipment-net	\$ 15,150	\$ 12,490	\$ 13,021	\$ 13,317	\$ 14,473
Total assets	\$ 51,050	\$ 31,257	\$ 39,097	\$ 45,184	\$ 45,692
Long-term debt	\$1,811	\$ 4,400 (a)	\$ 382	\$ 997	\$ 1,566
Shareholders' Equity	\$19,693	\$ 1,569	\$ 5,777	\$ 14,007	\$ 16,442
Common shares outstanding	17,783	10,849	7,969	7,944	7,605

(a) \$4,400,000 consists of a loan from Covista's Chairman of the Board, which was converted to equity in Fiscal 2003 (see ITEM 13).

(b) Includes \$3,400,000 of property contribution from Covista's Chairman of the Board (see ITEM 13).

ITEM 7. Management's Discussion and Analysis of Financial Condition and Results of Operations

The following discussion is presented to assist in assessing the changes in financial condition and performance of Covista for the fiscal years ended January 31, 2001 (Fiscal 2001), January 31, 2002 (Fiscal 2002) and January 31, 2003 (Fiscal 2003). The following information should be read in conjunction with the financial statements and related notes and other detailed information regarding Covista included elsewhere in this report and should not be construed to imply management's belief that the results, causes or trends presented will necessarily continue in the future. Certain information contained below and elsewhere in this annual report, including information with respect to Covista's plans and strategy for its business, are "forward-looking statements."

**Recent Accounting Pronouncements**

In June 2001, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards No. 141 ("SFAS 141"), "Business Combinations." SFAS 141 requires the purchase method of accounting for business combinations initiated after June 30, 2001 and eliminated the pooling-of-interests method. As of January 31, 2003, Covista has approximately \$8,206,000 of Goodwill recorded on its books.

In June 2001, the FASB issued Statement of Financial Accounting Standards No. 142 ("SFAS 142"), "Goodwill and Other Intangible Assets", which is effective February 1, 2002. SFAS 142 requires, among other things, the discontinuance of goodwill amortization. In addition, the standard includes provisions for the reclassification of certain existing recognized intangibles as goodwill, reassessment of the useful lives of existing recognized intangibles, reclassification of certain intangibles out of previously reported goodwill and the identification of reporting units for purposes of assessing potential future impairments of goodwill. SFAS 142 also requires Covista to complete a transitional goodwill impairment test six months from the date of adoption. Covista has not incurred impairment of Goodwill, based upon this test.

In June 2001, the FASB issued Statement of Financial Accounting Standards No. 143 ("SFAS 143"), "Accounting for Asset Retirement Obligations", which is effective for all fiscal years beginning February 1, 2003. SFAS 143 requires recording the fair value of a liability for an asset retirement obligation in the period in which it is incurred, and a corresponding increase in the carrying value of the related long-lived asset. Over time, the liability is accreted to its present value each period, and the capitalized cost is depreciated over the useful life of the related asset. Upon settlement of the liability, it is either settled for its recorded amount or a gain or loss upon settlement is recorded. The adoption of SFA3 143 does not have a significant impact on the financial position, results of operation, or cash flows of Covista.

In August 2001, the FASB issued Statement of Financial Accounting Standards No. 144 ("SFAS 144"), "Accounting for the Impairment or Disposal of Long Lived Assets", which is effective February 1, 2002. SFAS 144 replaces the Statement of Financial Accounting Standards No. 121, "Accounting for the Impairment of Long Lived Assets and for Long-Lived Assets to be Disposed Of". SFAS 144 requires that long-lived assets be measured at the lower of the carrying amount or fair value, less cost to sell, whether included in continuing operations or in discontinued operations. The adoption of SFAS 144 has not had a material impact on Covista's financial position or results of operations.

In July 2002, the FASB issued Statement of Financial Accounting Standards No. 146, "Accounting for Costs Associated with Exit or Disposal Activities." SFAS 146 requires that a liability for a cost that is associated with an exit or disposal activity be recognized when the liability is incurred. SFAS 146 also establishes that fair value is the objective for the initial measurement of the liability. SFAS 146 is effective for exit or disposal activities that are initiated after December 31, 2002.

In November 2002, the FASB issued FASB Interpretation No. 45 ("FIN 45"), "Guarantees," an interpretation of FASB Statement No. 5, "Accounting for Contingencies." This interpretation elaborates on the disclosures to be made by a guarantor in its interim and annual financial statements about its obligations under certain guarantees that it has issued. Compliance with this interpretation is not expected to have a material impact.

In December 2002, the FASB issued Statement of Financial Accounting Standards No. 148, "Accounting for Stock-Based Compensation - Transition and Disclosure - an amendment of SFAS 123." SFAS 148 is effective for fiscal years ending after December 15, 2002 and provides for additional annual and interim financial statement disclosures. Adoption has not had a material impact of Covista's financial position or results of operations.

In January 2003, FASB issued FASB Interpretation No. 46, Consolidation of Variable Interest Entities ("FIN 46"). FIN 46 requires a variable interest entity to be consolidated by a company if that company is subject to a majority of the risk of loss from the variable interest entity's activities or entitled to receive a majority of the entity's residual returns or both. FIN 46 also requires disclosures about variable interest entities that a company is not required to consolidate but in which it has a significant variable interest. Adoption of this interpretation is not expected to have a material impact.

## RESULTS OF OPERATIONS

### FISCAL 2003 AS COMPARED TO FISCAL 2002

#### **Revenues**

Net sales of telecommunications services for the fiscal year ended January 31, 2003 were approximately \$100,960,000, an increase of approximately \$5,647,000 or 5.9% from the approximately \$95,313,000 of net sales in Fiscal 2002. These revenues were comprised of retail sales of approximately \$75,455,000, KISSLD revenue of approximately \$12,990,000 and wholesale sales of approximately \$12,514,000. Covista billed approximately 1,453,124,000 minutes in Fiscal 2003 as compared to approximately 1,075,758,000 minutes in Fiscal 2002, an increase of 377,366,000 minutes or 35.1%.

Net retail sales for Fiscal 2003 were approximately \$75,455,000, an increase of approximately \$28,031,000, or 59.1% from the approximately \$47,424,000 billed in Fiscal 2002. Retail billed minutes were approximately 1,087,295,000, an increase of approximately 468,749,000 minutes or 75.8%, over the retail minutes of approximately 618,546,000 billed in Fiscal 2002. The average price per minute decreased approximately 7.4% as the industry continued to experience decreased price per minute of usage. Covista does not foresee that this trend in pricing will abate in the near future. The current year increase is primarily attributed to the Capsule acquisition.

Net KISSLD sales for Fiscal 2003 were approximately \$12,990,000 for the first year of this segment. KISSLD billed minutes were approximately 196,032,000.

Net wholesale (carrier) sales for Fiscal 2003 were approximately \$12,514,000, a decrease of approximately \$35,375,000 or 73.9% from the approximately \$47,889,000 billed in Fiscal 2002. Billed wholesale minutes amounted to approximately 169,797,000, a decrease of approximately 287,414,000 minutes or 62.8% from the billed wholesale minutes of approximately 457,211,000 billed in Fiscal 2002. The sales mix continued to move toward higher priced international traffic from the lower priced domestic traffic. International carrier traffic decreased 280,879,000 minutes or approximately 29% to approximately 114,740,000 minutes. Domestic minutes decreased approximately 6,535,000 or approximately 10.6% to approximately 55,057,000 minutes.

#### **Cost of Revenue**

Cost of revenue consists of access fees, line installation expenses, switch expenses, Network Operating Center ("NOC") expenses, network depreciation, transport expenses, and local and long-distance expenses. Cost of revenue for Fiscal 2003 was approximately \$66,671,000; a decrease of approximately \$9,805,000 or 12.8% from the approximately \$76,476,000 of cost of revenue in Fiscal 2002. The decrease in cost of revenue was primarily due to the decrease in lower margin wholesale volume of approximately \$35,809,000, a net increase in retail cost of revenue related primarily to the merger with Capsule Communications of approximately \$18,565,000, and an increase related to the launch of KISSLD of approximately \$7,439,000.

In the normal course of business, Covista files disputes with its service providers. The Covista accounting policy, followed on a consistent basis, is to record the invoiced amount to cost of revenue, which may include disputed amounts. When the dispute is resolved and the credit is received, the amount reduces cost of revenue. During the fiscal year ended January 31, 2003, Covista obtained net credits of approximately \$3.4 million for resolved disputes. These credits reduced cost of revenue and the corresponding accounts payable and accrued liability. Open and unresolved disputes included in accounts payable and accrued liabilities totaled approximately \$5.2 million at January 31, 2003.

In the normal course of business, Covista uses certain estimates to determine its monthly cost of revenue ("line cost") and corresponding accounts payable to these service providers. These line costs include fees for network transport, access, egress and facility charges. The Covista accounting policy provides that changes in the accrued cost of revenue estimates will be adjusted to actual amounts as soon as the actual liabilities can be fixed and determinable. These adjustments to actual expense are typically identified within 90 days following the period of estimate.



**Selling, General and Administrative:**

Selling, general and administrative (SG&A) expenses are comprised of selling and marketing costs, and general and administrative costs. SG&A expenses for Fiscal 2003 increased to approximately \$43,456,000, an increase of approximately \$12,469,000 or 40.2% from the approximate \$30,987,000 in Fiscal 2002. This increase was primarily due to an increase in SG&A expenses associated with the merger with Capsule Communications of approximately \$16,867,000, a decrease in salary, wages and benefits due to the transition of corporate headquarters from New Jersey to Tennessee of \$1,888,000; a decrease in commissions due to certain sales agents of approximately \$1,052,000; a decrease in bad debt expense of \$3,437,000 due to the substantial reduction of the higher risk wholesale business; and increased marketing expenses related to the KISSLD segment of approximately \$2,053,000.

**Stock Compensation Expense**

There were no stock compensation expenses for Fiscal 2003 as compared to \$12,000 in Fiscal 2002; this decrease is due to a majority of stock grants being fully vested.

**Income Tax Benefit**

During Fiscal 2003, the Company recorded income related to a tax refund received as a result of recent tax law changes in the amount of approximately \$511,000. No income was realized during Fiscal 2002.

**Other Income and Expense**

Total other expense, net for Fiscal 2003 increased approximately \$944,000. The components of other income and expense are interest expense, interest income and other items. Interest income decreased approximately \$111,000 after the selling of securities; interest expense increased approximately \$588,000 due to interest paid on the Wells Fargo Credit Line and the Note Payable to SunTrust; and gains on sales of securities decreased approximately \$245,000.

**Net Loss**

For the reasons set forth above, the net loss for Fiscal 2003 of approximately \$9,407,000 represents a decrease in net loss of approximately \$2,563,000 over the net loss of approximately \$11,970,000 reported in Fiscal 2002.

## RESULTS OF OPERATIONS

### FISCAL 2002 AS COMPARED TO FISCAL 2001

#### **Revenues**

Net sales of telecommunications services for the fiscal year ended January 31, 2002 were approximately \$95,313,000, a decrease of approximately \$37,917,000 or 28.5% from the approximately \$133,230,000 of net sales in Fiscal 2001. These revenues were comprised of retail sales of approximately \$47,424,000 and wholesale sales of approximately \$47,889,000. Covista billed approximately 1,075,758,000 minutes in Fiscal 2002 as compared to approximately 1,255,437,000 minutes in Fiscal 2001, a decrease of 179,678,000 minutes or 14.3%.

Net retail sales for Fiscal 2002 were approximately \$47,424,000, a decrease of approximately \$6,063,000, or 11.3% from the approximately \$53,487,000 billed in Fiscal 2001. Retail billed minutes were approximately 618,546,000, an increase of approximately 18,165,000 minutes or 3%, over the retail minutes of approximately 600,381,000 billed in Fiscal 2001. The average price per minute decreased approximately 17.3% as the industry continued to experience decreased price per minute of usage. Covista does not foresee that this trend in pricing will abate in the near future.

Net wholesale (carrier) sales for Fiscal 2002 were approximately \$47,889,000, a decrease of approximately \$31,854,000 or 39.9% from the approximately \$79,743,000 billed in Fiscal 2001. Billed wholesale minutes amounted to approximately 457,211,000, a decrease of approximately 197,844,000 minutes or 30.2% from the billed wholesale minutes of approximately 655,055,000 billed in Fiscal 2001. The sales mix continued to move toward higher priced international traffic from the lower priced domestic traffic. International carrier traffic decreased 162,049,000 minutes or approximately 29.1% to approximately 395,619,000 minutes. Domestic minutes decreased approximately 35,794,000 or approximately 36.8% to approximately 61,592,000 minutes. The average wholesale price per minute fell 16% due to continuing competition in the industry, a trend, which Covista believes, will continue.

#### **Cost of Revenue**

Cost of revenue consists of access fees, line installation expenses, switch expenses, Network Operating Center ("NOC") expenses, network depreciation, transport expenses, and local and long-distance expenses. Cost of revenue for Fiscal 2002 was approximately \$76,476,000, a decrease of approximately \$39,583,000 or 34.1% from the approximately \$116,059,000 of cost of revenue in Fiscal 2001. Included in cost of revenue are direct line costs, usage charges and the direct costs of Covista's switches and NOC. The decrease in cost of revenue was primarily due to the decrease in lower margin wholesale volume of approximately \$24,401,000; a decrease in technician salary, wages and fringe benefits of approximately \$46,000; decreased consulting expense of approximately \$174,000 an improvement in rates obtained from vendors of approximately \$15,298,000; other net savings in the NOC and switches of approximately \$123,000; an increase in depreciation expense resulting from upgrades to the switches of approximately \$130,000; an increase in equipment rental resulting from a switch sale/leaseback agreement in the amount of approximately \$329,000; and the effect of the access charge settlement recorded in Fiscal 2001.

#### **Selling, General and Administrative:**

Selling, general and administrative (S, G & A) expenses are comprised of selling and marketing costs, and general and administrative costs. S, G & A expenses for Fiscal 2002 increased to approximately \$30,987,000, an increase of approximately \$4,083,000 or 15.2% from the approximate \$26,903,000 in Fiscal 2001. This increase was primarily due to increases in salary, wages and benefits due to the new residential service and call center being established in Tennessee of approximately \$412,000; a \$570,000 severance accrual established for New York/New Jersey staff reductions taking place in fiscal 2003; an increase in marketing cost related to new residential service of approximately \$177,000; an increase in general office expense of approximately \$272,000; an increase in bad debt expense of \$2,758,000 due to the write off of a portion of certain carrier receivables; an increase in depreciation and amortization due to amortization of customer lists (from customer lists acquired from Blink Data Corporation) of approximately \$731,000; and an increase in travel and entertainment of approximately \$98,000. These increases were offset by reductions in commissions due to decreased sales volume of approximately \$497,000; decreases in selling expense of approximately \$90,000; and a decrease in professional fees and consulting of \$252,000.

## **Stock Compensation Expense**

Stock compensation expenses for Fiscal 2002 decreased to approximately \$12,000, a decrease of approximately \$255,000, or 95.5%, from the approximately \$267,000 charged in Fiscal 2001. The decrease is due to a majority of stock grants being fully vested.

## **Other Income and Expense**

Total other income, net for Fiscal 2002 increased approximately \$88,000. The components of other income and expense are interest expense, interest income and other items. Interest income decreased approximately \$8,000; interest expense increased approximately \$137,000; and gains on sales of securities increased approximately \$232,000.

## **Net Loss**

The net loss for Fiscal 2002 of approximately \$11,970,000 represents an increase in net loss of approximately \$3,340,000 over the net loss of approximately \$8,629,000 reported in Fiscal 2001, based on the explanations of changes above.

## LIQUIDITY AND CAPITAL RESOURCES

### **Working Capital**

At January 31, 2003, Covista had a working capital deficit of approximately \$9,536,000 as compared to approximately \$11,327,000 at January 31, 2002, an improvement in working capital of approximately \$1,791,000. The increase in working capital in Fiscal 2003 was primarily attributable to an increase in cash of approximately \$2,065,000; a reduction in investments of approximately \$440,000; an increase in accounts receivable of approximately \$5,463,000; a decrease in prepaid expenses of approximately \$747,000; and an increase in accrued liabilities of approximately \$6,589,000. Also affecting working capital were a decrease in notes receivable of approximately \$500,000; a reduction in accounts payables of approximately \$4,392,000; a decrease in accrued salaries and wages of approximately \$594,000; and an increase in current portion of long-term debt of \$2,447,000. The current ratio of 0.67 to 1 improved from the 0.55 to 1 ratio at the end of Fiscal 2002.

On February 20, 2002, Covista's Board of Directors approved the private sale of additional Common Stock of up to \$12,500,000, including a cash infusion of \$4,800,000, contribution of \$3,300,000 of fixed assets for debt or Common Stock and the conversion of existing long-term debt for Common Stock at the rate of \$5.00 per share, the closing price for the Common Stock on the date authorized by the Board. The commitment for funding for the investment and the conversion of the indebtedness was anticipated to come primarily from the Chairman of Covista's Board or his designees and was subject to shareholder's approval at the next annual meeting, or a special meeting of shareholders to be convened for such purpose.

Effective April 16, 2003, Covista executed a revolving credit and security agreement along with related documents that provide the Company with an \$8 million revolving loan, of which \$7 million is currently available. This thirty-six month facility allows the Company to borrow funds based on a portion of eligible customer accounts receivable and bears interest at the Prime Rate plus 2.00% with a floor of 6.25%. Interest, unused line and collateral management fees are payable monthly in arrears. The loan is secured by all of the Company's assets. Initial loan proceeds were used to payoff the Wells Fargo facility in full.

The cash flow statement of Covista for Fiscal 2003 indicated an increase in cash and cash equivalents of approximately \$2,065,000. Non-cash adjustments (depreciation, amortization, and provision for bad debt,) of approximately \$10,196,000 are added back and net changes in assets and liabilities of approximately \$8,249,000 deducted from the net loss of approximately \$9,407,000 resulted in net cash used by operations of approximately \$7,461,000. Cash used in investing activities amounted to approximately \$79,000, of which approximately \$1,543,000 were used for the purchase of capital additions, proceeds from sale investments approximated \$440,000, repayment of a note from Capsule Communications of \$500,000, and payment for deferred line installation costs of approximately \$655,000. These changes were partially offset by net cash acquired from the Capsule merger of approximately \$1,179,000. The cash provided by financing activities of approximately \$9,605,000 consisted primarily of net bank borrowings of approximately \$2,520,000, cash received from the exercise of stock options of approximately \$378,000, proceeds from the issuance of Common Stock of approximately \$4,107,000.

### **Accounts Receivable**

The Company has entered into offset arrangements with certain carrier customers, who are also vendors, allowing for the ability to offset payable balances against the Company's receivable balances.

Covista experienced consolidated accounts receivable turnover of approximately 51 and 59 days for Fiscal 2003 and Fiscal 2002 respectively.

## CRITICAL ACCOUNTING POLICIES

### **Revenue Recognition**

The Company's revenues, net of sales discounts, are recognized in the period in which the service is provided, based on the number of minutes of telecommunications traffic carried, and a rate per minute. Access and other service fees charged to customers, typically monthly, are recognized in the period in which service is provided.

### **Deferred Line Installation Costs**

Deferred line installation costs are costs incurred by the Covista for new facilities and costs incurred for connections from within the Covista's network to the network of other telecommunication suppliers. Amortization of these line installation costs is provided using the straight-line method over the contract life of the lines ranging from three to five years.

### **Long-Lived Assets**

The Company accounts for the impairment of long-lived assets and for long-lived assets to be disposed of by evaluating the carrying value of its long-lived assets in relation to the operating performance and future undiscounted cash flows of the underlying businesses annually and when indications of impairment are present. Long-lived assets to be disposed of, if any, are evaluated in relation to the net realizable value. If impairment is indicated, the amount of the impairment is typically calculated using discounted expected future cash flows. The discount rate applied to these cash flows is based on the Company's weighted average cost of capital. If the carrying value of the asset exceeds the fair value of the asset, the difference will be charged to the results of operations in the period that the impairment occurred. Based on the Company's analysis of future undiscounted cash flows, which are in excess of the carrying value of its long-lived assets, there does not appear to be an impairment as of January 31, 2003.

## CAPITAL EXPENDITURES

Capital expenditures for Fiscal 2003 totaled approximately \$4,943,000, excluding fixed assets acquired in the Capsule merger and fixed assets contributed from Covista's Chairman of the Board. These expenditures were financed from funds provided from Covista's working capital, and a private sale of equity and a loan. The capital expenditures were used primarily for upgrades to Covista's switches and switch sites, software and hardware upgrades to Covista's computer network and furniture, fixtures and equipment.

Capital expenditures for Fiscal 2004 are estimated at approximately \$2,000,000 and are expected to be financed from funds provided from operations.

### **Inflation**

Since inflation has slowed in recent years, Covista does not believe that its business has been materially affected by the relatively modest rate of price increases in the economy. However, pressures in the industry to reduce prices, which have impacted Covista in the past, are expected to continue. Also the telecommunications industry has recently experienced the failure of several businesses, some of which are Covista's wholesale customer and suppliers. These failures not only have affected Covista's FY 2003 results, but also may impact future results. Covista continues to seek improvements in operations and efficiency through capital expenditures. Expenditures to improve the signaling system, information systems and the local area network are expected to result in operating costs savings, which could partially offset any future cost increases.

#### ENVIRONMENTAL MATTERS

Covista is not a party to any legal proceedings or the subject of any claim regarding environmental matters generally incidental to its business. In the opinion of Management, compliance with the present environmental protection laws should not have a material adverse effect upon the financial condition of Covista

#### ITEM 7A. Quantitative and Qualitative Disclosures About Market Risk

Market risk represents the risk of changes in value of a financial instrument, derivative or non-derivative, caused by fluctuations in interest rates, foreign exchange rates and equity prices. The exposure to interest rate risk relates primarily to the marketable securities held by Covista. Covista only invests in instruments with high credit quality where a secondary market exists. Covista does not hold any derivatives related to its interest rate exposure. Covista also maintains long-term debt at fixed rates. Due to the nature and amounts of Covista's note payable, an immediate 10% change in interest rates would not have a material effect in Covista's results of operations over the next fiscal year. Covista's exposure to adverse changes in foreign exchange rates is also immaterial to the consolidated statements as a whole.

#### ITEM 8. Financial Statements and Supplementary Data

The Financial Statements and Supplementary Data are included under Item 15 of this Report.

#### ITEM 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure

Not applicable.

### PART III

#### ITEM 10. Directors and Executive Officers of Covista

The directors and officers of Covista are as follows:

<u>NAME</u>	<u>AGE</u>	<u>POSITION</u>
Henry G. Luken, III	43	Chairman of the Board
A. John Leach, Jr.	40	Director, President & Chief Executive Officer
Kevin Alward	36	Director, Chief Operating Officer
Jay J. Miller	69	Director
Nicholas Merrick	40	Director
Leon Genet	71	Director
Donald Jones	67	Director
W. Thorpe McKenzie	55	Director
Thomas P. Gunning	65	Treasurer, Secretary & Chief Financial Officer

Covista's directors all serve for one-year terms and until their successors are elected and qualify. Officers serve at the pleasure of the Board of Directors.

Henry G. Luken, III was elected a Director of Covista in February 1999, and Chairman of the Board in February 2001. Currently, he is President of Montlake Properties, Inc., a real estate development firm; a director of Equity Broadcasting Corp., a TV network; a director of ACNTV, a home shopping company selling through TV; Managing Agent of Henry IV LLC, an aircraft sales company. A co-founder of Telco Communications Group inc., he served as Chief Executive Officer and Treasurer from July 1993 to April 1996, and Chairman from July 1993 to October 1997. Mr. Luken has also served as Chairman of Tel-Labs, Inc., a telecommunications billing firm ("Tel-Labs") since 1991, and as Chairman of Telco Development Group, Inc., a computer systems firm owned by Mr. Luken, since 1987, both of which entities he founded.

Leon Genet has served as a Director since October 1996. For more than the past five years, he has been a partner in Genet Realty, a commercial and industrial real estate brokerage firm. He serves as a member of the National Commerce and Industry Board for the State of Israel Bonds Organization and is a shareholder, director and officer of LPJ Communications, Inc., which has earned commissions from Covista on the same basis as other independent sales representatives. See "Certain Relationships and Related Transactions".

A. John Leach, Jr. was appointed President and Chief Executive Officer and a Director of Covista on May 18, 2000. He had been Senior Vice President of Sales at BTI Telecomm, Inc., from December, 1999 to May, 2000; Senior Vice President of Teleglobe, Inc. from June 1996 to December 1999, where he assumed responsibility for US and Canadian commercial sales markets. He was promoted to this position from Senior Vice President of Wholesale and Agent Markets, Telco Communications (a subsidiary of Teleglobe, Inc.) June 1996 to February 1999. Prior to that, Mr. Leach was Vice President of Agent Services at BTI Telecomm, from December 1989 to June 1996. Regional Sales Manager of Mobilecomm (a Bell South Company) where he started in sales and rose to a Regional Sales Manager position May 1985 to December 1989.

Jay J. Miller, Esq. has served as a Director since 1983. He has been a practicing attorney for more than 40 years in New York. He is Chairman of the Board of AmTrust Pacific Ltd., a New Zealand real estate company. He is also a director of Technology Insurance Company, Inc., a provider of workers' compensation as well as various insurance products to the technology industry, and certain of its affiliates. Mr. Miller has performed legal services on behalf of Covista. See "Certain Relationships and Related Transactions."

Thomas P. Gunning was appointed Vice President, Secretary / Treasurer of Covista in May 1999. He was appointed Chief Financial Officer in September, 1994 and served in that capacity until May 0f 1999. He was again appointed Chief Financial Officer in May of 2000. He was appointed Secretary of Covista in January of 1995. He has served as Controller of Covista since September 1992. He is a Certified Public Accountant licensed by the States of New York and New Jersey. From 1989 until joining Covista, Mr. Gunning was the Senior Audit Manager at Rosenberg Selsman & Company, a certified public accounting firm. From 1976 to 1989, he was Chief Financial Officer of Flyfaire, Incorporated, a travel wholesale operator. Prior to such time, Mr. Gunning held various positions in both public and private accounting firms.

Donald Jones recently retired from his position as Senior Vice President for Chapter Services of the American Red Cross, for which he worked since 1991. Prior to joining the Red Cross, Mr. Jones was Deputy Assistant Secretary of Defense for Military Manpower and Personnel Policy. Mr. Jones served in the United States Army for over 35 years and retired in 1991 with the permanent rank of Lieutenant General.

Nicholas Merrick currently serves as President of Mt Vernon Investments, LLC, an investment company, which he has served as President since January 2002. Mr. Merrick served as Senior Vice President and Chief Financial Officer of Telergy, Inc., a high-speed fiber optic communications network company, from May 2000 to July 2001. Telergy filed for reorganization under the bankruptcy laws in October 2001 and has liquidated. Prior to joining Telergy, Mr. Merrick was Chief Executive Officer of Up2 Technologies, Inc. and Executive Vice President of Excel Communications, each of which is a subsidiary of Teleglobe, Inc. (global communications, e-business services), from 1998 until 2000. From 1996 to 1997, he was Vice President and Chief Financial Officer of Telco Communications Group, Inc., and from 1985 to 1996, he was Vice President of Corporate Finance at the Robinson-Humphrey Company, Inc. and Managing Director of R-H Capital Partners.

Kevin A. Alward was appointed Chief Operating Officer of Covista on March 29, 2001 and was elected a director of Covista on July 17, 2001. He had previously served TotalTel USA as President and Chief Operating Officer from 1994 to 1998, when he left the company to become President of North America for Destia Communications, Inc. (formerly known as Econophone, Inc.) and its successor by merger, Viatel, Inc. In April 2000, he co-founded Blink Data Corp., a telecommunications and data services provider headquartered in northern New Jersey, where he was President and Chief Executive Officer until his return to Covista.

W. Thorpe McKenzie is Managing Director of Pointer Management Company, Chattanooga, Tennessee, which he co-founded in 1990 to invest in hedge funds and similar types of partnerships utilizing a fund of funds approach. From 1982 until 1990, he was a private investor in New York City, and a director of several public and private companies. From 1980 until 1982, he was founding general partner of TIGER, a global hedge fund. From 1971 until 1980, he was a Vice President of Kidder, Peabody, & Co., Inc. in New York. McKenzie is a graduate of the University of North Carolina in Chapel Hill, and the Wharton Graduate division of the University of Pennsylvania in Philadelphia. He is currently a director of Novestra AB, a publicly traded venture capital investment firm located in Stockholm, Sweden.

#### **Board of Directors**

Covista's Board of Directors currently consists of eight persons, two of whom are members of management and six of whom are non-management directors. During the fiscal year ended January 31, 2003, the Board held five meetings, each of which was attended by at least 80% of the directors then serving.

Covista's Board of Directors has Audit and Compensation Committees, but does not have a Nominating Committee or a committee performing a similar function. The Audit Committee currently consists of three non-management directors, Messrs. Nicholas Merrick, Donald Jones and W. Thorpe McKenzie. The Committee reviews, analyzes and may make recommendations to the Board of Directors with respect to Covista's financial statements and controls. The Committee has met and intends to meet from time to time with Covista's independent public accountants to monitor their activities. The Compensation Committee consists of Messrs. Henry Luken and Jay J. Miller and is charged with reviewing and recommending the compensation and benefits payable to Covista's senior executives. Mr. Leach is an ex-officio member of both the Compensation and Audit Committees.

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ITEM 11. Executive Compensation

The following table sets forth the compensation that Covista paid during the fiscal years ended January 31, 2003, 2002 and 2001 to its Chief Executive Officer and to each executive officer of Covista or person performing similar functions whose aggregate remuneration exceeded \$100,000, during Covista's fiscal year ended January 31, 2003 (the "Named Executives").

**Summary Compensation Table**

NAME & PRINCIPAL POSITION	FISCAL YEAR ENDED JANUARY 31	ANNUAL COMPENSATION SALARY (\$)	ANNUAL COMPENSATION BONUS (\$)	OTHER ANNUAL COMPENSATION (\$)	COMPENSATION AWARDS OPTIONS (\$)	ALL OTHER COMPENSATION (\$)
John Leach, President & Chief Executive Officer (1)	2003	\$ 300,000	\$ 150,000	\$ 0	\$ 0	\$ 24,292 (3)
	2002	\$ 300,000	\$ 400,000 (2)	\$ 0	\$ 0	\$ 5,250 (4)
	2001	\$ 210,000	\$ 0	\$ 0	\$ 0	\$ 15,346 (5)
Thomas P. Gunning, Vice President, Treasurer and Secretary	2003	\$ 155,000	\$ 0	\$ 0	\$ 0	\$ 11,320 (6)
	2002	\$ 155,000	\$ 15,000	\$ 0	\$ 0	\$ 11,085 (7)
	2001	\$ 147,360	\$ 0	\$ 0	\$ 0	\$ 11,427 (8)
Kevin Alward, Chief Operating Officer	2003	\$ 250,000	\$ 125,000	\$ 0	\$ 0	\$ 9,638 (9)
	2002	\$ 235,577	\$ 104,167	\$ 0	\$ 0	\$ 3,567 (10)

- (1) Mr. Leach joined Covista on May 18, 2000.
- (2) The amount shown includes \$250,000 in bonus due to Mr. Leach for the period from 05/01/00 to 04/30/01 but not paid until FY2002.
- (3) The amount shown represents Covista's contributions under its 401(K) Deferred Compensation and Retirement Savings Plan of \$5,500, Covista's group major medical benefit of \$3,792 and \$15,000 in reimbursement for certain relocation expenses.
- (4) The amount shown represents Covista's contribution under its 401(K) Deferred Compensation and Retirement Savings Plan.
- (5) The amount shown represents Covista's contribution under its 401(K) Deferred Compensation and Retirement Savings Plan of \$346 and \$15,000 in reimbursement for certain relocation expenses.
- (6) The amount shown represents Covista's contributions under its 401(K) Deferred Compensation and Retirement Savings Plan of \$4,740, Covista's group major medical benefit of \$4,800 and \$1,780 for the use of a Company's vehicle for non-business purposes.
- (7) The amount shown represents Covista's contribution under its 401(K) Deferred Compensation and Retirement Savings Plan of \$4,505; Covista company auto expenses of \$1,780; and Covista's group major medical benefit of \$4,800.
- (8) The amount shown represents Covista's contribution under its 401(K) Deferred Compensation and Retirement Savings Plan of \$4,460, \$2,167 for the use of a Company's vehicle for non-business purposes and \$4,800 for term life insurance premiums.
- (9) The amount shown represents Covista's contributions under its 401(K) Deferred Compensation and Retirement Savings Plan of \$4,518 and Covista's group major medical benefit of \$5,120.
- (10) The amount shown represents Covista's contribution under its 401(K) Deferred Compensation and Retirement Savings Plan.



### Compensation Pursuant to Plans

In October, 1996, Covista adopted its 1996 Stock Option Plan; in February 2000, its 1999 Equity Incentive Plan; in February 2002, its 2001 Equity Incentive Plan; and in December 2002, adopted its 2002 Equity Incentive Plan (the "Option Plans"). The Option Plans provide that certain options granted there under are intended to qualify as "incentive stock options" within the meaning of Section 422A of the United States Internal Revenue Code, while non-qualified options may also be granted under the Option Plans. Incentive stock options may be granted only to employees of Covista, while non-qualified options may be granted to non-executive directors, consultants and others as well as employees.

The Option Plans may be administered by the Compensation Committee of Covista's Board of Directors. Covista has reserved 600,000 shares of Common Stock under the 1996 Option Plan and 750,000 shares of Common Stock under its 1999 Equity Incentive Plan, 900,000 under its 2001 Equity Incentive Plan and 750,000 under its 2002 Equity Incentive Plan for issuance to employees, officers, directors and consultants of Covista.

No option may be transferred by an optionee other than by will or the laws of descent and distribution, and during the lifetime of an optionee, an option may be exercised only by him. In the event of termination of employment other than by death or disability, the optionee will have one month (subject to extension not to exceed an additional two months) after such termination during which he may exercise his option. Upon termination of employment of an optionee by reason of death or permanent total disability, his option remains exercisable for one year thereafter to the extent it was exercisable on the date of such termination. No similar limitation applies to non-qualified options.

Options under the Option Plans must be granted within 10 years from the effective date of the respective Option Plan. Incentive stock options granted under the Option Plans cannot be exercised later than 10 years from the date of grant. Options granted under the Option Plans permit payment of the exercise price in cash or by delivery to Covista of shares of Common Stock already owned by the optionee having a fair market value equal to the exercise price of the options being exercised, or by a combination of such methods of payment. Therefore, an optionee may be able to tender shares of Common Stock to purchase additional shares of Common Stock and may theoretically exercise all of his stock options with no additional investment other than his original shares.

Any option, which expires, unexercised or that terminates upon an employee's ceasing to be employed by Covista become available again for issuance under the Option Plans.

For further information related to stock option plans, reference is made to Note 10 in the Notes to the Consolidated Financial Statements.

### Compensation of Directors

For the fiscal year ended January 31, 2003, each director who was not an employee of Covista was entitled to receive a director's fee of \$15,000 per year, and to be reimbursed for out-of-pocket expenses incurred in connection with attendance at meetings. However, Mr. Luken waived the right to receive such compensation.

### Employment Contracts, Termination of Employment and Change of Control Arrangements

As Covista's Chief Executive Officer, Mr. Leach has a three-year employment agreement with Covista effective as of May 18, 2000, pursuant to which Mr. Leach was paid base salary at the rate of \$300,000 per annum during fiscal 2001. Pursuant to this agreement, Mr. Leach was also entitled to receive a signing bonus in the amount of \$25,000 to cover relocation and other expenses. Mr. Leach is also entitled to receive an annual bonus in an amount not to exceed 100 percent of his then effective base salary, based upon Mr. Leach's attainment of annual revenue and earnings targets as well as management goals set by the Board of Directors. Mr. Leach was guaranteed a minimum bonus payment of \$150,000 during each year of this agreement.

In connection with his appointment as Chief Executive Officer of Covista, Mr. Leach was granted an option under Covista's 1996 Stock Option Plan to purchase 288,000 shares of Covista Common Stock. The option granted to Mr. Leach was scheduled to vest over a period of three years, in six equal semi-annual installments, the first of which commenced on November 18, 2000. The exercise price for the option was \$14.25 and was based on the fair market value of the Covista Common Stock on the date of the grant, and the options expire after ten years. According to the agreement, in the event that the Covista Common Stock did not close at or above \$14.25 for at least 20 consecutive trading days between May 18, 2000 and May 18, 2001, a new exercise price would be calculated based on the average closing price of the Covista Common Stock for the 40 trading days prior to May 18, 2001. In lieu of adjusting the exercise price of Mr. Leach's options in the manner provided in his employment agreement, on February 1, 2001 Covista granted to Mr. Leach a new option to purchase 288,000 shares of Covista Common Stock. These options fully vested as a result of the Capsule merger. The exercise price for the option is \$2.00 per share and is based on the fair market value of the Covista Common Stock on the date of grant. The option expires after a term of ten years.

As Covista's Chief Operating Officer, Mr. Alward has a two-year employment agreement effective as of March 29, 2001, pursuant to which Mr. Alward is paid an annual base salary of \$250,000. Pursuant to this agreement, Mr. Alward received a signing bonus in the amount of \$24,000. Mr. Alward is also entitled to receive an annual bonus in an amount not to exceed 100 percent of his then effective base salary, based upon Covista's attainment of annual revenue and earnings targets as well as management goals set by the Board of Directors. Mr. Alward's agreement provides that he shall receive the same percentage bonus as Mr. Leach. Mr. Alward is guaranteed a minimum bonus payment of \$125,000 for each year of this agreement. Mr. Alward's contract was extended for an additional year at March 29, 2003.

In connection with his appointment as Chief Operating Officer of Covista, Mr. Alward was granted an option under Covista's 2001 Equity Incentive Plan to purchase 250,000 shares of Covista Common Stock. The option granted to Mr. Alward became fully vested as a result of the Capsule merger. The exercise price for the option is \$2.00.

#### **Compensation Committee Interlocks and Insider Participation**

Jay J. Miller, a director of Covista, provided various legal services for Covista during fiscal 2003. In fiscal 2003, Covista paid \$57,481 to Mr. Miller for services rendered and accrued during fiscal 2003. As of January 31, 2003, Covista had invoices payable to Mr. Miller totaling \$41,085. Covista believes that Mr. Miller's fees were reasonable for the services performed and were no less favorable to Covista than could have been obtained from an unrelated third party.

#### **Report on Executive Compensation**

The following report describes the policies pursuant to which compensation was paid to executive officers of Covista for performance during the fiscal year ended January 31, 2003.

**Compensation Philosophy and Approach.** Generally, Covista seeks to attract, retain and motivate its executive officers through a combination of base salary, incentive awards based upon individual performance and stock option awards under the Covista Communications, Inc. Equity Incentive Plans and otherwise. The Board of Directors believes that a substantial portion of the aggregate annual compensation of each executive officer should be influenced by the performance of Covista and the individual contribution of the executive officer.

**Base Salaries.** The Board of Directors believes that the base salaries of Covista's executive officers for fiscal 2003 were generally in line with those for other comparable positions within the telecommunications service industry and similar industries. However, Covista places significant emphasis on incentive awards and stock option grants as a means of motivating and rewarding its management. The Board of Directors believes that this strategy provides optimal incentives for management to create long-term stockholder value.

**Incentive Compensation Payments.** In addition to base pay, some of Covista's senior executives (including its Chief Executive Officer) are eligible to receive bonuses and stock option awards. Bonuses and stock options may be awarded, based upon the individual performance of each executive officer at the sole discretion of the Board of Directors. During the fiscal year 2003 John Leach received a cash bonus of \$150,000 and Kevin Alward received a bonus of \$125,000. There were no additional options granted to Named Executives Offices during Fiscal 2003.

**Compensation of the Chief Executive Officer.** The compensation policies applicable to Covista's Chief Executive Officer are similar to those applicable to Covista's other executive officers. Mr. Leach has a three-year employment agreement with Covista effective as of May 18, 2000, pursuant to which Mr. Leach was paid base salary at the rate of \$300,000 per annum during fiscal 2001. Pursuant to this agreement, Mr. Leach was also entitled to receive a signing bonus in the amount of \$25,000 to cover relocation and other expenses. Mr. Leach is also entitled to receive an annual bonus in an amount not to exceed 100 percent of his then effective base salary, based upon Mr. Leach's attainment of annual revenue and earning targets, as well as management goals set by the Board of Directors. Mr. Leach was guaranteed a minimum bonus payment of \$150,000 during the term of this agreement.

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ITEM 12. Security Ownership of Certain Beneficial Owners and Management

**Security Ownership of Certain Beneficial Owners.** The following table sets forth the beneficial ownership of Covista's Common Stock as of May 1, 2003 by each person or group known by Covista to be the beneficial owner of five percent or more of the outstanding shares of Covista Common Stock. Unless otherwise indicated, each such person (alone or with family members) has sole voting and dispositive power with respect to the shares listed opposite such person's name.

<u>Name and Address of Beneficial Owner</u>	<u>Amount and Nature of Beneficial Ownership (1)</u>	<u>Percentage of Class (2)</u>
Kevin A. Alward 182 Powell Road Allendale, NJ 07401	1,480,779 (3)	8.2%
W. Thorpe McKenzie 735 Broad Street, Suite 1108 Chattanooga, TN 37402	1,060,727	6.0%
Warren Feldman 45A Samworth Road Clifton, NJ 07012	1,146,478 (4)	6.4%
Donald A. Burns 1021 North Ocean Blvd Palm Beach, FL 33480	1,883,261	10.6%
Henry G. Luken, III 900 Fairway Lane Soddy Daisy, TN 37379	8,780,566 (5)	49.4%

- (1) Except as otherwise set forth in the footnotes to this table, all shares are beneficially owned and sole investment and voting power is held by the persons named above, to the best of Covista's knowledge. Shares of Covista Common Stock subject to options that are currently exercisable or exercisable within 60 days of November 6, 2002 are deemed to be outstanding and to be beneficially owned by the person holding such options for the purpose of computing the percentage ownership of such person, but are not treated as outstanding for the purpose of computing the percentage ownership of any other person.
- (2) Based on 17,783,092 shares outstanding.
- (3) Includes 250,000 shares of Covista Common Stock issuable to Mr. Alward under currently exercisable options. Also includes 186,516 shares of Covista Common Stock owned by trusts of which Mr. Alward's minor children are beneficiaries, as to which Mr. Alward disclaims beneficial ownership. Based on the Schedule 13D jointly filed by Mr. Alward and certain related entities on November 16, 2001.
- (4) Includes 375,678 shares of Covista Common Stock owned by The Warren H. Feldman Family L.L.C., as to which shares Mr. Feldman disclaims beneficial ownership. Based on the Schedule 13D/A filed by Mr. Feldman on March 7, 2003.
- (5) Based on the Schedule 13D/A filed by Mr. Luken on January 10, 2003.

**Security Ownership of Management.** The following table sets forth as of May 1, 2003, information concerning the beneficial ownership of Covista Common Stock by each director, each nominee for election as a director, and each Named Executive, and for all directors, director nominees and executive officers as a group:

<u>Name and Address of Beneficial Owner</u>	<u>Amount and Nature of Beneficial Ownership (1)</u>	<u>Percentage of Class (2)</u>
Kevin A. Alward	1,480,779 (3)	8.2%
W. Thorpe McKenzie	1,060,727	6.0%
Leon Genet	41,120	*
Thomas P. Gunning	62,300 (4)	*
Donald Jones	5,000	*
A. John Leach, Jr.	534,000 (5)	3.0%
Henry G. Luken, III	8,780,566 (6)	49.4%
Nicholas Merrick	100	*
Jay J. Miller	35,400 (7)	*
All directors, director nominees and executive officers as a group (9 persons)	11,999,992 (3)-(7)	65.2%

\* Less than one percent.

- (1) Except as otherwise set forth in the footnotes to this table, all shares are beneficially owned and sole investment and voting power is held by the persons named above, to the best of Covista's knowledge. Shares of Covista Common Stock subject to options that are currently exercisable or exercisable within 60 days of November 6, 2002 are deemed to be outstanding and to be beneficially owned by the person holding such options for the purpose of computing the percentage ownership of such person, but are not treated as outstanding for the purpose of computing the percentage ownership of any other person.
- (2) Based on 17,783,092 shares outstanding
- (3) Includes 250,000 shares of Covista Common Stock issuable to Mr. Alward under presently exercisable options. Also includes 186,516 shares of Covista Common Stock owned by trusts of which Mr. Alward's minor children are beneficiaries, as to which Mr. Alward disclaims beneficial ownership. Based on the Schedule 13D jointly filed by Mr. Alward and certain related entities on November 16, 2001.
- (4) Includes 37,000 shares of Covista Common Stock issuable to Mr. Gunning under currently exercisable options. Does not include 25,400 shares owned by Mr. Gunnings' spouse.
- (5) Includes 288,000 shares of Covista Common Stock issuable to Mr. Leach under currently exercisable options.
- (6) Based on the Schedule 13D/A filed by Mr. Luken on January 10, 2003.
- (7) Includes 35,000 shares of Covista Common Stock issuable to Mr. Miller under currently exercisable options.

c) Changes in Control

On February 1, 2001, the Board of Directors of Covista authorized a transaction (the "Stock Issuance Transaction") involving the issuance and sale of a total of 3,500,000 shares of Common Stock to the following three persons (the "Purchasers") in the amounts indicated: Kevin Alward, 1,000,000 shares; A. John Leach, 500,000 shares; and Henry G. Luken, III, 2,000,000 shares. Pursuant to the rules of the NASD, consummation of the Stock Issuance Transaction was subject to the approval of Covista's shareholders because Messrs. Leach and Luken currently were directors and officers of Covista, and, in addition, it was expected that Mr. Alward would become an officer of Covista. The transaction was approved at a special shareholders meeting on March 29, 2001. The stock was issued in April 2001.

ITEM 13. Certain Relationships and Related Transactions

Jay J. Miller, a Director of Covista, provided various legal services for Covista during Fiscal 2003. In Fiscal 2002, Covista paid \$57,481 to Mr. Miller for services rendered and accrued for in Fiscal 2003. As of January 31, 2003, Covista owed Mr. Miller \$41,085 for services rendered during Fiscal 2003. Covista believes that Mr. Miller's fees were reasonable for the services performed and were no less favorable to Covista than could have been obtained from an unrelated third party. In February 2002, Covista granted to Mr. Miller non-statutory options to purchase 35,000 shares of Covista stock at \$2.00 per share.

Leon Genet, a Director of Covista, has provided agent services for Covista through his wholly owned Company, LPJ, Inc. During Fiscal 2003, LPJ, Inc. was paid commissions of \$78,134. The commissions paid to LPJ, Inc. were computed on the same basis as other independent agents retained by Covista.

Covista has entered into a lease agreement for 28,000 square feet of office space in Chattanooga, Tennessee, with Henry G. Luken III who is Covista's Chairman of the Board and its principal shareholder. The term of the lease is for five years beginning September 1, 2001. The lease provides for annual rent of \$86,400 from September 1, 2001 to August 30, 2002; \$115,200 from September 1, 2002 to August 30, 2003; \$144,000 from September 1, 2003 to August 30 2004, with the last two years to be \$144,000 annually adjusted for the Consumer Price Index. Covista believes that such premises are leased on terms similar to an arm's length transaction.

On July 2, 2001, Covista received a loan from Henry G. Luken III, its Chairman of the Board and principal shareholder, in the amount of \$4,000,000. The loan matures on February 1, 2003 together with accumulated interest at a rate of 7% per annum. The proceeds of the loan were used to purchase a 10-year commitment for approximately 2.8 billion DS-0 channel miles of telecommunications network capacity from an unaffiliated party. The unaffiliated party has recently filed for Chapter 11 reorganization; however at the time of this filing is continuing to perform under the agreement. Mr. Luken also advanced the company \$400,000, the proceeds of which were used for construction of new facilities.

On February 1, 2001, the Board of Directors of the Company, subject to shareholder's approval which was obtained on March 29, 2001, authorized the sale of a total of 3,500,000 shares of Common Stock to the following three persons (the "Purchasers") in the amounts indicated: Kevin Alward, 1,000,000 shares; A. John Leach, 500,000 shares; and Henry G. Luken, III, 2,000,000 shares. The purchase price for the Common Stock issued to Messrs. Alward, Leach and Luken was \$2.00 per share, based on the fair market value of shares at February 2, 2001. The stock sale was consummated in April 2001 with the issuance of 3,150,000 shares of Common Stock. The Board of Directors authorized a decrease of 350,000 shares to be purchased by Mr. Leach.

On July 24, 2001, the Company loaned \$200,000 to Capsule Communications, Inc. of which a director and the Chairman of the Company were principal shareholders. The loan was evidenced by a note in the principal amount of \$200,000 with interest payable of 8¼% per annum, due July 24, 2002. On August 9, 2001, the Company loaned an additional \$300,000 to Capsule Communications, Inc. evidenced by a similar note due August 9, 2002. By virtue of the merger with Capsule, the indebtedness was extinguished as an inter-company obligation.

On August 31, 2001, Covista entered into a transaction with Applied Financial Corp. an unaffiliated firm involving the sale and leaseback of a telecommunications switch. Covista realized proceeds of approximately \$1,250,000 from the sale portion of the transaction, and agreed to lease back the switch for a three-year period at a cost of approximately \$420,000 per annum. Henry G. Luken, III provided an unconditional guaranty of Covista's payment obligations to Applied Financial under the lease. Covista did not compensate Mr. Luken for providing such guaranty.

On December 1, 2001, Covista entered into a lease for property located at 806 East Main Street, Chattanooga, Tennessee, for use as a switching facility. The lessor is Henry G. Luken III, Chairman of the Board and a principal shareholder of Covista. The lease expires on November 30, 2006. Annual rent is payable as follows: \$22,500 from December 1, 2001 to November 30, 2002, \$27,000 from December 1, 2002 to November 30, 2003, \$31,500 from December 1, 2003 to November 30, 2004, and \$36,000 from December 1, 2004 to November 30, 2005. Rental amounts for months beginning after October 1, 2005 will be adjusted upward for the U.S. Consumer Price Index. The lease may be renewed for an additional 5 years upon 90 days' written notice prior to the lease expiration date. Covista believes that such premises are leased on terms not less favorable than an arm's length transaction.

On October 1, 2002, Covista entered into a lease for Suite 200 at 721 Broad Street, Chattanooga, Tennessee, for use as offices for Corporate Headquarters. The lessor is Henry G. Luken III, Chairman of the Board and a principal shareholder of Covista. The lease expires on November 30, 2007. Annual rent is payable as follows: Year 1 = \$101,674, Year 2 = \$111,670, Year 3 = \$120,000, Year 4 = \$120,000, Year 5 = \$120,000. Rental amounts for months beginning after October 1, 2005 will be adjusted upward for the U.S. Consumer Price Index. The lease may be renewed for an additional 5 years upon 90 days' written notice prior to the lease expiration date. Covista believes that such premises are leased on terms not less favorable than an arm's length transaction.

A proxy statement dated November 19, 2002 and mailed to stockholders on or about November 20, 2002 provided details on; a proposal to issue and sell up to 4,360,000 shares of the Company's Common Stock to Henry G. Luken III, Chairman of the Board of Directors of the Company, or a limited number of persons designated by Mr. Luken. In December 2002, Covista completed the issuance and sale of 4,359,958 shares of common stock to Henry G. Luken III, in exchange for conversion of a note payable to him in the amount of \$7,000,000, the contribution of other assets with a fair value of \$3,400,000 and cash of \$2,100,000. These shares were sold at \$2.87 per share, which was the market price when the transaction was approved.

Covista also issued and sold 500,000 shares of common stock to W. Thorpe McKenzie, member of the Board of Directors, in exchange for cash of \$1,433,500. These shares were sold at \$2.87 per share, which was the market price when the transaction was approved.

ITEM 14. Controls and Procedures

Evaluation of Controls and Procedures

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we have evaluated the effectiveness of the design and operation of our disclosure controls and procedures within 90 days of filing of this annual report on Form 10-K, and based on their evaluation, our principal executive officer and principal financial officer have concluded that these controls and procedures are effective. There were no significant changes in our internal controls or in other factors that could significantly affect these controls subsequent to the date of their evaluation.

Disclosure controls and procedures are our controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934, as amended, is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Changes in Controls and Procedures

There were no significant changes in our internal controls or in other factors that could significantly affect these internal controls after the date of our most recent evaluation.

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SIGNATURES

Pursuant to the requirements of Section 13 or 15 (d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized, on the 21<sup>st</sup> day of May 2003.

COVISTA COMMUNICATIONS, INC.  
(Registrant)

By: /S/ Henry G. Luken III  
Henry G. Luken III  
Chairman of the Board

Pursuant to the requirements of the Securities Exchange Act of 1934, this Report has been signed below by the following persons on behalf of the Registrant and in the capacities and on the dates indicated.

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/S/ Henry G. Luken III</u> Henry G. Luken III	Chairman of the Board	May 21, 2003
<u>/S/ W. Thorpe McKenzie</u> W. Thorpe McKenzie	Director	May 21, 2003
<u>/S/ Kevin Alward</u> Kevin Alward	Director, Chief Operating Officer	May 21, 2003
<u>/S/ Leon Genet</u> Leon Genet	Director	May 21, 2003
<u>/S/ Donald Jones</u> Donald Jones	Director	May 21, 2003
<u>/S/ A. John Leach</u> A. John Leach	Director, President and Chief Executive Officer	May 21, 2003
<u>/S/ Nicholas Merrick</u> Nicholas Merrick	Director	May 21, 2003
<u>/S/ Jay J. Miller</u> Jay J. Miller	Director	May 21, 2003
<u>/S/ Thomas P. Gunning</u> Thomas P. Gunning	Vice President, Treasurer and Secretary, Chief Financial Officer and Principal Accounting Officer	May 21, 2003

I, A. John Leach, Jr., certify that;

- 1) I have reviewed this annual report on Form 10-K of Covista;
- 2) Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which statements were made, not misleading with respect to the period covered by this annual report.
- 3) Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of Covista as of, and for, the periods presented in this annual report.
- 4) Covista's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for Covista and have:
  - a) Designed such disclosure controls and procedures to ensure that material information relating to Covista, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;
  - b) Evaluated the effectiveness Covista's disclosure controls and procedures as of a date within 90 days prior to the filing date of this annual report (the "Evaluation Date"); and
  - c) Presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
- 5) Covista's other certifying officers and I have disclosed, based on our most recent evaluation, to Covista's auditors and the audit committee of Covista's Board of Directors (or persons performing the equivalent functions):
  - a) All significant deficiencies in the design or operation of internal controls which could adversely affect Covista's ability to record, process, summarize, and report financial data, and I have identified for Covista's auditors any material weaknesses in internal controls; and
  - b) Any fraud, whether or not material, that involves management or other employees who have a significant role in Covista's internal controls; and
- 6) Covista's other certifying officers and I have indicated in this annual report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: May 21, 2003

By: /s/ A. John Leach, Jr.

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A. John Leach, Jr.  
President and Chief Executive Officer



I, Thomas P. Gunning, certify that;

- 1) I have reviewed this annual report on Form 10-K of Covista;
- 2) Based on my knowledge, this annual report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which statements were made, not misleading with respect to the period covered by this annual report.
- 3) Based on my knowledge, the financial statements, and other financial information included in this annual report, fairly present in all material respects the financial condition, results of operations and cash flows of Covista as of, and for, the periods presented in this annual report.
- 4) Covista's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-14 and 15d-14) for Covista and have;
  - a) Designed such disclosure controls and procedures to ensure that material information relating to Covista, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this annual report is being prepared;
  - b) Evaluated the effectiveness Covista's disclosure controls and procedures as of a date within 90 days prior to the filing date of this annual report (the "Evaluation Date"); and
  - c) Presented in this annual report our conclusions about the effectiveness of the disclosure controls and procedures based on our evaluation as of the Evaluation Date;
- 5) Covista's other certifying officers and I have disclosed, based on our most recent evaluation, to Covista's auditors and the audit committee of Covista's Board of Directors (or persons performing the equivalent functions);
  - d) All significant deficiencies in the design or operation of internal controls which could adversely affect Covista's ability to record, process, summarize, and report financial data, and I have identified for Covista's auditors any material weaknesses in internal controls; and
  - e) Any fraud, whether or not material, that involves management or other employees who have a significant role in Covista's internal controls; and
- 6) Covista's other certifying officers and I have indicated in this annual report whether there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of our most recent evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

Date: May 21, 2003

By: /s/ Thomas P. Gunning

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Thomas P. Gunning  
Vice President, Chief Financial Officer  
And Principal Accounting Officer

CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of Covista Communications, Inc. on Form 10-K for the period ending January 31, 2003 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, A. John Leach, Jr., President and CEO of Covista Communications, Inc. certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that;

- 1) The report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- 2) The information contained in the Report fairly presents, in all material aspects, the financial condition and result of operations of Covista Communications, Inc.

Date: May 21, 2003

By: /s/ A. John Leach, Jr.

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A. John Leach, Jr.  
President and Chief Executive Officer

CERTIFICATION PURSUANT TO  
18 U.S.C. SECTION 1350,  
AS ADOPTED PURSUANT TO  
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of Covista Communications, Inc. on Form 10-K for the period ending January 31, 2003 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Thomas P. Gunning, Chief Financial Officer of Covista Communications, Inc. certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that;

- 1) The report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- 2) The information contained in the Report fairly presents, in all material aspects, the financial condition and result of operations of Covista Communications, Inc.

Date: May 21, 2003

By: /s/ Thomas P. Gunning

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Thomas P. Gunning  
Vice President, Chief Financial Officer  
And Principal Accounting Officer

<u>Exhibit No.</u>	<u>Description of Document</u>
(3) (a)	Certificate of Incorporation, as amended, Incorporated by reference to Exhibits 2-A, 2-B, 2-C and 2-D to Registration Statement No. 2-15546 and Registrant's proxy statement relating to its 1987 Annual Stockholder's Meeting.
(3) (b)	By-Laws of Registrant. Incorporated by reference to Exhibit A to Registrant's Annual Report on Form 10-K for the year ended January 31, 1972.
(3) (c)	Amended Certificate of Incorporation to change the name of the Corporation from Faradyne Electronics Corp. to Total-Tel USA Communications, Inc., dated November 4, 1991. Incorporated by reference to Exhibit 3 (c) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1992.
(3)(d)	By-Law Amendments incorporated by reference to Form 8K filed on April 7, 1998.
(3)(e)	Shareholder Rights plan filed by reference to Form 8K, on April 12, 1998.
(3) (f)	Amended Certificate of Incorporation to change the name of the Corporation from Total-Tel USA Communications, Inc. to Covista USA Communications, Inc., dated September 15, 2000. Incorporated by reference to Form 8-K filed on September 29, 2000.
(10)(a)	Lease of premises at 140 Little Street, Belleville, New Jersey, between Mansol Realty and Mansol Ceramics, dated March 30, 1960. Incorporated by reference to Exhibit 13 (e) to Registration Statement No. 2-17546.
(10)(a) (1)	Assignment of lease from Mansol Realty Company to Mansol Realty Associates. Incorporated by reference to Exhibit 10 (a) (1) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1982.
(10)(b)	Extension Agreement re: Lease of premises at 140 Little Street dated October 31, 1974. Incorporated by reference to Exhibit 10 (b) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1981.
(10)(c)	Lease of premises at 471 Cortland Street, Belleville, New Jersey, between Birnfeld Associates and Mansol Ceramics Company, dated October 31, 1974. Incorporated by reference to Exhibit 10 (c) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1981.
(10)(d)	Lease Modification Agreement re: Lease of premises at 471 Cortland Street dated July 24, 1980. Incorporated by reference to Exhibit 10 (d) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1981.
(10)(e) (i)	Term Loan Agreement and Term Note both dated April 22, 1983 between Mansol Ceramics Company and United Jersey Bank in the principal amount of \$1,192,320. Incorporated by reference to Exhibit 10 (e) to Registrants Annual Report on Form 10-K for the year ended January 31, 1983.
(10)(e) (ii)	Installment Note and Equipment Loan and Security Agreement of Mansol Ceramics Company and Guaranty of Registrant, dated August 1, 1988, in connection with extension of the maturity date of the loan referenced to in Exhibit 10 (e) (i). Incorporated by reference to Registrant's Annual Report on Form 10-K for the year ended January 31, 1989.
(10)(f)	Lease of premises at 17-25 Academy Street, Newark, New Jersey between Mansol Ceramics Company and Rachlin & Co., dated April 29, 1983. Incorporated by reference to Exhibit 10 (f) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1984.
(10)(g)	Lease Modification Agreement re: Lease of Premises at 471 Cortland Street dated July 24, 1985. Incorporated by reference to Exhibit 10 (g) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1986.

<u>Exhibit No.</u>	<u>Description of Document</u>
(10)(h)	Master Lease Agreement between Mansol Ceramics Company and Fidelcor Services, Inc. dated December 30, 1985. Incorporated by reference to Exhibit 10 (h) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1986.
(10)(i)	Deed, Mortgage and Mortgage Note between William and Fred Schneper as Grantees and Borrowers and Mansol Ceramics Company as Grantor and Lender, dated July 26, 1985 re: property located in Hanover Township, New Jersey. Incorporated by reference 10 (i) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1986.
(10)(j)	Lease of premises at 140 Little Street, Belleville, New Jersey, between Mansol Realty Association and Mansol Ceramics Company, dated July 31, 1986. Incorporated by reference to Exhibit 10 (j) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1987.
(10)(k)	1987 Stock Option Plan. Incorporated by reference to Registrant's proxy statement relating to its 1987 Annual Stockholders' Meeting.
(10)(k)(1)	Amendment to the 1987 Stock Option Plan. Incorporated by reference to Registrant's Form S-8 dated November 13, 1995.
(10)(l)	Renewal of Lease and Extension to additional space at 17-25 Academy Street, Newark, New Jersey (a/k/a 1212 Raymond Boulevard, Newark, New Jersey) between Mansol Ceramics Company and Rachlin & Co. Incorporated by reference to Exhibit 10 (l) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1988. (See also Exhibit 10 (f)).
(10)(m)	Agreement dated June 13, 1989, between Mansol Ceramics Company and Bar-lo Carbon Products, Inc. providing for the sale of Ceramics' Carbon fixtures division. Incorporated by reference to Exhibit 10 (m) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1990.
(10)(n)	Modification of Note and Mortgage from William Schneper, Fred Schneper and Leon Schneper (Mortgagor) to Mansol Ceramics Company (Mortgagee) dated August 1, 1990, extending the term of the Note and Mortgage and modifying the interest provision. Incorporated by reference to the Registrant's Annual Report on Form 10-K for the year ended January 31, 1991.
(10)(o)	Asset Purchase Agreement between Registrant, Mansol Ceramics Company and Mansol Industries Inc. dated May 22, 1990, including Subordinated Term Promissory Note and Security Agreement, covering sale of assets and business of Manufacturing Division of Mansol Ceramics Company. Incorporated by reference to Exhibits 1, 2 and 3 to Registrant's Current Report on Form 8-K dated May 22, 1990.
(10)(p)	Modification of Loan between Mansol Industries, Inc. (borrower) and Mansol Ceramics Company (Lender) dated January 31, 1992, allowing for the deferral of the principal for twelve months through and including the period ending June 22, 1992 in consideration for personal guarantees from Borrower. Incorporated by reference to Exhibit 10 (p) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1992.
(10)(q)	Lease of premises at 470 Colfax Avenue, Clifton, New Jersey, between Total-Tel USA Communications, Inc. and Broadway Financial Investment Services, Inc. dated March 25, 1991. Incorporated by reference to Exhibit 10 (q) to Registrant's Annual Report on Form 10-K for the year ended January 31, 1992.
(10)(r)	Lease of premises at 744 Broad Street, Newark, New Jersey between Total-Tel USA Inc. and Investment Property Services, Inc. dated November 15, 1993. Incorporated by reference to Exhibit 10 (r) to the Registrant's Annual Report on Form 10-K for the year ended January 31, 1994.

<u>Exhibit No.</u>	<u>Description of Document</u>
(10)(s)	Lease of premises at 744 Broad Street, Newark, New Jersey between Total-Tel USA, Inc. and Investment Property Services, Inc. dated December 28, 1993. Incorporated by reference to Exhibit 10 (s) to the Registrant's Annual Report on Form 10-K for the year ended January 31, 1994
(10)(t)	Lease of premises at 471 Cortland Street, Belleville, New Jersey, between Total-Tel USA Inc. and Birnfeld Associates - Belleville dated December 1, 1993. Incorporated by reference to Exhibit 10 (t) to the Registrant's Annual Report on Form 10-K for the year ended January 31, 1994.
(10)(u)	Lease of premises at 150 Clove Road, Little Falls, New Jersey, between Total-Tel USA, Inc. and the Prudential Insurance Company of America dated February 22, 1994. Incorporated by reference to Exhibit 10 (u) to the Registrant's Annual Report on Form 10-K for the year ended January 31, 1994.
(10)(v)	Lease modification to the lease of the premises at 150 Clove Road, Little Falls, New Jersey between TotalTel, Inc. and The Prudential Company of America dated May 18, 1994. Incorporated by reference to Exhibit 10 (v) to the Registrant's Annual Report on Form 10-K for the year ended January 31, 1995.
(10)(w)	Second lease modification to the lease of the premises at 150 Clove Road, Little Falls, New Jersey between TotalTel, Inc. and Theta Holding Company, L. P., successor to the Prudential Insurance Company of America dated February 9, 1995. Incorporated by reference to Exhibit 10 (w) to the Registrant's Annual Report on Form 10-K for the year ended January 31, 1995.
(10)(x)	Third lease modification to the lease of the premises at 150 Clove Road, Little Falls, New Jersey between TotalTel, Inc. and Theta Holding Company, L. P., successor to the Prudential Insurance Company of America dated January 31, 1997. Incorporated by reference to exhibit (10)(x) to the registrants Annual Report on Form 10-K for the year ended January 31, 1997.
(10)(y)	Equipment Facility and Revolving Credit Agreement dated August 23, 1996 between Total-Tel USA Communications, Inc., TotalTel, Inc., TotalTel USA, Inc., and TotalTel Carrier Services, Inc. and the Summit Bank in the amount of \$10,000,000. Incorporated by referral to Exhibit (10)(y) to the Registrants Annual Report on Form 10K for the year ended January 3, 1997.
(10)(z)	Lease of premises at 500 Fifth Avenue, New York City, New York between TotalTel, Inc. and 1472 Broadway, Inc. dated November 8, 1996. Incorporated by reference to Form 10K for the year ended January 31, 1997.
(10)(AA)	Lease of premises at 40 Rector Street, New York City, New York between Total-Tel USA Communications, Inc. and 40 Rector Street Company dated November 1, 1996. Incorporated by reference to Form 10K for the year ended January 31, 1997.
(10)(AB)	1996 Stock Option Plan, Incorporated by reference to Registrant's Proxy Statement relating to its 1996 Annual Stockholder Meeting.
(10)(AC)	Lease of premises of 28 West Flagler Street, Miami, Florida between TotalTel, Inc. and Mosta Corporation, Inc. dated February 6, 1998. Incorporated by reference to Form 10K for the year ended January 31, 1998.
(10)(AD)	Amended Equipment Facility and Revolving Credit Agreement dated August 23, 1996 between Total-Tel USA Communications, Inc., TotalTel, Inc., Total-Tel USA, Inc., and Total-Tel Carrier Services, Inc. and the Summit Bank in the amount of 13,000,000. Incorporated by reference to Form 10K for the year ended January 31, 1997.

<u>Exhibit No.</u>	<u>Description of Document</u>
(10)(AE)	Amendment to the Amended Facility and Revolving Credit Agreement dated November 1, 1998 between Total-Tel USA Communications, Inc., TotalTel, Inc., Total-Tel USA, Inc., and Total-Tel Carrier Services, Inc. and the Summit Bank in the amount of 13,000,000. Incorporated by reference to Form 10K for the year ended January 31, 1999.
(10)(AF)	Lease of premises of 20 Crossways Park North, Woodbury, New York, between TotalTel, Inc. and Industrial and Research Associates Company, dated August 20, 1999. Incorporated by reference to Form 10K for the year ended January 31, 2000.
(10)(AG)	Lease of premises of One Landmark Square, Stamford, Connecticut between TotalTel, Inc. and Reckson Operating Partnership, LLP, dated November 17, 1999. Incorporated by reference to Form 10K for the year ended January 31, 2000.
(10)(AH)	Lease of premises of 1810 Chapel Avenue West, Cherry Hill, New Jersey between TotalTel, Inc. and Commerce Center Holdings, Inc., dated December 6, 1999. Incorporated by reference to Form 10K for the year ended January 31, 2000.
(10)(AI)	The 1999 Equity Incentive Plan Incorporated by reference to the Registrant's Proxy Statement relating to its 1999 Annual Shareholder Meeting.
(10)(AJ)	Employment agreement of A. John Leach. Incorporated by reference to the Registrant's Proxy Statement relating to its 2001 Annual Shareholders Meeting.
(10)(AL)	The Covista Communications, Inc. 2001 Equity Incentive Plan dated February 1, 2001; incorporated by reference to Form S-4 Registration Statement No 333-6944 effective January 09,2002.
(10)(AM)	Sale and Lease/Back Master Lease agreement for Alcatel phone switch between Covista and Applied Financial dated July 25, 2001. Incorporated by reference to the Registrant's Annual Report on Form 10-K for the year ended January 31, 2002.
(10)(AO)	Sale and Lease/Back Schedule 1 agreement for Alcatel phone switch between Covista and Applied Financial dated July 25, 2001. Incorporated by reference to the Registrant's Annual Report on Form 10-K for the year ended January 31, 2002.
(10)(AP)	Sale and Lease/Back Schedule 2 agreement for Alcatel phone switch between Covista and Applied Financial dated July 25, 2001. Incorporated by reference to the Registrant's Annual Report on Form 10-K for the year ended January 31, 2002.
(10)(AQ)	Merger agreement between Covista Communications, Inc. and Capsule Communications, Inc.; incorporated by reference to Form S-4 Registration Statement No 333-6944 effective January 09, 2002.
(10)(AR)	Lease of premises at 806 East Main Street, Chattanooga, Tennessee.
(10)(AS)	Lease of premises at 721 Broad Street, Chattanooga, Tennessee.
(10)(AT)	Lease of premises at 4803 Highway 58, Chattanooga, Tennessee.
(10)(AU)	Revolving Credit and Security Agreement with Capital Source Finance, LLC, dated April 16, 2003.
(10)(AV)	The 2002 Equity Incentive Plan Incorporated by reference to the Registrant's Proxy Statement dated November 19, 2002 relating to its 2002 Annual Shareholders Meeting.
(23)	Independent Auditors' Consent

COVISTA COMMUNICATIONS, INC.

AND SUBSIDIARIES

ITEM 15. Exhibits and Financial Statements Schedule Years Ended January 31, 2003, 2002, and 2001

INDEX

(a) (1) **Financial Statements:** The following consolidated financial statements of Covista Communications, Inc. and subsidiaries are included at the end of this Report:

<u>Consolidated Financial Statements:</u>	<u>Page</u>
Independent auditors' report	F-1
Consolidated balance sheets - January 31, 2003 and 2002	F-2
Consolidated statements of loss and comprehensive loss - years ended January 31, 2003, 2002 and 2001	F-3
Consolidated statements of shareholders' equity - years ended January 31, 2003, 2002, 2001	F-4
Consolidated statements of cash flows - years ended January 31, 2003, 2002, 2001	F-5
Notes to consolidated financial statements	F-7

(a) (2) **Supplementary Data Furnished Pursuant  
to the Requirements of FORM 10-K:**

Schedule - years ended January 31, 2002, 2001 and 2000

<b>II</b>	<b>Valuation and Qualifying Accounts (Consolidated)</b>	F-26
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Schedules other than those listed above are omitted because they are not required, not applicable or the information has been otherwise supplied.

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## INDEPENDENT AUDITORS' REPORT

Board of Directors and Shareholders  
Covista Communications, Inc.

We have audited the accompanying consolidated balance sheets of Covista Communications, Inc. and subsidiaries (the "Company") as of January 31, 2003 and 2002, and the related consolidated statements of loss and comprehensive loss, shareholders' equity, and cash flows for each of the three years in the period ended January 31, 2003. Our audits also included the consolidated financial statement schedule listed in the index at Item 15. These consolidated financial statements and financial statement schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements and financial statement schedule based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall consolidated financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, such consolidated financial statements present fairly, in all material respects, the financial position of Covista Communications, Inc. and subsidiaries as of January 31, 2003 and 2002, and the results of their operations and their cash flows for each of the three years in the period ended January 31, 2003 in conformity with accounting principles generally accepted in the United States of America. Also, in our opinion, such financial statement schedule, when considered in relation to the basic consolidated financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

As described in Note 2 to the consolidated financial statements, on January 1, 2002, the Company changed its method of accounting for goodwill and other intangible assets to conform to Statement of Financial Accounting Standards No. 142, "Goodwill and Other Intangible Assets".

/s/ DELOITTE & TOUCHE LLP  
Atlanta, Georgia  
May 15, 2003

**CONSOLIDATED BALANCE SHEETS**  
**JANUARY 31, 2003 AND 2002**

ASSETS

	<u>2003</u>	<u>2002</u>
<b>CURRENT ASSETS:</b>		
Cash and cash equivalents	\$ 3,444,307	\$ 1,379,038
Investments available for sale	-	439,773
Trade accounts receivable (net of allowance of \$ 5,569,160 and \$ 4,987,130 in 2003 and 2002, respectively)	15,716,015	10,252,837
Notes receivable	-	500,000
Prepaid expenses and other current assets	626,574	1,373,780
Total current assets	<u>19,786,896</u>	<u>13,945,428</u>
Property and equipment, net	15,150,416	12,489,626
Deferred line installation costs (net of accumulated amortization of \$1,198,955 and \$843,049 in 2003 and 2002, respectively)	473,688	174,785
Intangible assets (net of accumulated amortization of \$ 4,249,281 and \$ 846,452 in 2003 and 2002, respectively)	6,786,967	3,366,667
Goodwill	8,205,850	--
Other Assets	646,581	1,280,285
	<u>\$51,050,398</u>	<u>\$31,256,791</u>

LIABILITIES AND SHAREHOLDERS' EQUITY

<b>CURRENT LIABILITIES:</b>		
Accounts payable	\$ 15,073,691	\$ 19,465,274
Other current and accrued liabilities	11,024,151	4,434,795
Salaries and wages payable	397,430	991,012
Current portion of long-term debt	2,827,999	381,405
Total current liabilities	<u>29,323,271</u>	<u>25,272,486</u>
Other long-term liabilities	223,434	15,466
Long-term debt	<u>1,810,759</u>	<u>4,400,000</u>

Commitments and contingencies (Note 14)

<b>SHAREHOLDERS' EQUITY:</b>		
Common stock, par value \$0.05 per share, authorized 50,000,000 shares, issued 19,319,511 in 2003 and 12,385,757 shares in 2002	965,976	619,288
Additional paid-in capital	52,834,984	25,650,098
Accumulated deficit	(32,662,586)	(23,255,107)
Treasury stock at cost (1,536,419 shares in 2003 and 2002)	(1,445,440)	(1,445,440)
Total shareholders' equity	<u>19,692,934</u>	<u>1,568,839</u>
	<u>\$ 51,050,398</u>	<u>\$ 31,256,791</u>

See notes to consolidated financial statements

CONSOLIDATED STATEMENTS OF LOSS AND COMPREHENSIVE LOSS  
YEARS ENDED JANUARY 31, 2003, 2002 AND 2001

	<u>2003</u>	<u>2002</u>	<u>2001</u>
NET REVENUES	\$100,959,692	\$ 95,312,696	\$ 133,230,437
COSTS AND EXPENSES:			
Cost of revenue	66,670,757	76,475,802	116,059,002
Access charge settlement (Note 17)	--	--	(1,264,483)
Selling, general and administrative (excluding stock compensation)	43,455,931	30,986,877	26,902,962
Stock compensation	--	12,011	266,565
Total costs and expenses	110,126,688	107,474,690	141,964,046
OPERATING LOSS	(9,166,996)	(12,161,994)	(8,733,609)
OTHER INCOME (EXPENSE):			
Interest income	48,867	159,996	167,583
Other	29,853	274,466	41,994
Interest expense	(830,423)	(242,056)	(105,272)
Total other income (expense), net	(751,703)	192,406	104,305
LOSS BEFORE INCOME TAXES	(9,918,699)	(11,969,588)	(8,629,304)
INCOME TAX BENEFIT	(511,220)	--	--
NET LOSS	(9,407,479)	(11,969,588)	(8,629,304)
OTHER COMPREHENSIVE INCOME, NET OF TAX			
Unrealized holding gain	--	--	79,531
COMPREHENSIVE LOSS	\$ (9,407,479)	\$ (11,969,588)	\$ (8,549,773)
BASIC LOSS PER COMMON SHARE	\$ (0.71)	\$ (1.17)	\$ (1.18)
DILUTED LOSS PER COMMON SHARE	\$ (0.71)	\$ (1.17)	\$ (1.18)

See notes to consolidated financial statements

COVISTA COMMUNICATIONS, INC. AND SUBSIDIARIES  
CONSOLIDATED STATEMENTS OF CASH FLOWS  
YEARS ENDED JANUARY 31, 2003, 2002 AND 2001

	<u>2003</u>	<u>2002</u>	<u>2001</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>			
Net Loss	\$ (9,407,479)	\$ (11,969,588)	\$ (8,629,304)
Adjustments to reconcile net loss to net cash (used in) provided by operating activities:			
Depreciation and amortization	7,441,502	4,568,631	3,577,995
Provision for doubtful accounts	2,754,712	5,382,384	2,346,761
Non-cash stock compensation expense	--	12,011	266,565
Loss of disposal of property and equipment	--	--	88,690
(Gain) loss on sale of investments	--	(265,733)	5,317
Change in assets and liabilities, excluding effect of acquisition:			
Trade accounts receivable	(2,647,222)	4,890,957	789,518
Prepaid expenses and other current assets	893,966	251,683	1,339,568
Other assets	336,150	(164,300)	(293,584)
Increase (decrease) in liabilities:			
Accounts payable	(7,663,882)	(8,494,772)	3,157,678
Other current and accrued liabilities	623,590	2,033,621	(558,312)
Other long-term liabilities	207,968	(208,322)	(26,744)
Net cash (used in) provided by operating activities	<u>(7,460,695)</u>	<u>(3,963,428)</u>	<u>2,064,148</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>			
Net cash acquired in purchase of business	1,179,172	90,402	--
Proceeds from sales and maturities of investments available for sale	439,773	115,529	86,788
Purchases of property and equipment	(1,542,952)	(5,465,329)	(3,227,593)
Proceeds from sale of property and equipment and leaseback transactions	--	2,338,038	1,975
Notes receivable from related party	500,000	(500,000)	--
Payments for deferred line installation costs	(654,809)	(55,809)	(47,621)
Payments for prepaid network capacity	--	(4,000,000)	--
Net cash used in investing activities	<u>(78,816)</u>	<u>(7,477,169)</u>	<u>(3,186,451)</u>

	<u>2003</u>	<u>2002</u>	<u>2001</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES:</b>			
Proceeds from the issuance of Common Stock	\$ 4,106,900	\$ 6,300,000	--
Proceeds from Stock Options exercised	377,547	43,441	\$ 136,012
Note payable to related party	2,600,000	4,400,000	--
Net increase (decrease) in bank borrowings	<u>2,520,333</u>	<u>(615,695)</u>	<u>(696,299)</u>
Net cash provided by (used in) financing activities	<u>9,604,780</u>	<u>10,127,746</u>	<u>(560,287)</u>
<b>NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS</b>	<u>2,065,269</u>	<u>(1,312,851)</u>	<u>(1,682,590)</u>
<b>CASH AND CASH EQUIVALENTS BEGINNING OF YEAR</b>	<u>1,379,038</u>	<u>2,691,889</u>	<u>4,374,479</u>
<b>CASH AND CASH EQUIVALENTS END OF YEAR</b>	<u>\$ 3,444,307</u>	<u>\$ 1,379,038</u>	<u>\$ 2,691,889</u>
<b>SUPPLEMENTAL DISCLOSURES OF CASH FLOW INFORMATION:</b>			
Cash paid (received) during the year for:			
Interest	\$ 830,423	\$ 242,056	\$ 105,272
Income Taxes	(511,220)	1,560	(1,643,227)
Non-cash:			
Contribution of property from shareholder	3,400,000	--	--
Exchange of Debt for Common Stock issued to related party	7,000,000	--	--
Issuance of treasury stock for customer lists included in other assets	--	--	184,153
Issuance of Common Stock in connection with acquisition for other assets	--	900,000	--
Business Acquired:			
Fair value of assets excluding cash	\$ 21,849,458	--	--
Less: liability assumed	(10,056,503)	--	--
Less: stock consideration for business acquired	(12,972,127)	--	--
Cash acquired	1,179,172	--	--

See notes to consolidated financial statements

COVISTA COMMUNICATIONS, INC. AND SUBSIDIARIES  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEARS ENDED JANUARY 31, 2003, 2002 AND 2001

1. NATURE OF OPERATIONS

Covista Communications, Inc. ("Covista"), and its wholly-owned subsidiaries (collectively, the "Company") operates as a switch based resale common carrier providing domestic and international long distance telecommunications service to customers throughout the United States. Prior to the Capsule acquisition, the Company's principal customers were primarily businesses and other common carriers. On September 15, 2000, the Company changed its name from Total-Tel USA Communications, Inc. to Covista Communications, Inc. On February 8, 2002, Covista completed the acquisition of Capsule Communications, Inc. As a result, Capsule became a wholly owned subsidiary of Covista. Capsule is a switch-based interexchange carrier providing long distance telephone communications services primarily to small and medium-size business customers as well as residential accounts. The results of Capsule's operations have been included in the Company's statement of operations since the acquisition date.

2. SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

**Principles of Consolidation** - The consolidated financial statements include the accounts of Covista Communications, Inc. and its subsidiaries, all of which are wholly owned. All significant inter-company transactions and balances have been eliminated in the consolidated financial statements.

**Revenue Recognition** - The Company's revenues, net of sales discounts, are recognized in the period in which the service is provided, based on the number of minutes of telecommunications traffic carried, and a rate per minute. Access and other service fees charged to customers, typically monthly, are recognized in the period in which service is provided.

**Property and Equipment** - Property and equipment are stated at cost. Depreciation and amortization is being provided by use of the straight-line method over the estimated useful lives of the related assets. Leasehold improvements are amortized over the shorter of the term of the lease or the useful lives of the asset.

The estimated useful lives of the principal classes of assets are as follows:

<u>Classification</u>	<u>Years</u>
Machinery and equipment	5-10
Office furniture, fixtures and equipment	5-10
Vehicles	3-5
Leasehold improvements	2-10
Computer equipment and software	5-7

**Deferred Line Installation Costs** - The Company defers charges from other common carriers related to the cost of installing telephone transmission facilities (lines). Amortization of these costs is provided using the straight-line method over the related contract life of the lines ranging from three to five years.

COVISTA COMMUNICATIONS, INC. AND SUBSIDIARIES  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)  
FOR THE YEARS ENDED JANUARY 31, 2003, 2002 AND 2001

Intangible Assets – Intangible assets consist of prepaid network capacity and purchased customer and agent relationships being amortized over a straight-line basis over periods varying between 10 and 120 months. The Company incurred amortization expense on intangible assets of approximately \$3,400,000, \$800,000, and \$0 for the years ended January 31, 2003, 2002, and 2001 respectively. The Company's balance of intangible assets with a definite life was approximately \$6,787,000, net of accumulated amortization of approximately \$4,249,000 at January 31, 2003 and approximately \$3,367,000, net of accumulated amortization of approximately \$846,000 at January 31, 2002. Approximate amortization expense on intangible assets for the next 5 years as of January 31, is as follows:

2004	\$ 2,075,000
2005	\$ 1,914,000
2006	\$ 1,032,000
2007	\$ 400,000
2008	\$ 400,000
Thereafter	\$ 966,000

Use of Estimates - The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, the disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenues and expenses during the reported period. Actual results could differ from those estimates.

Concentrations of Credit Risk - The Company sells its telecommunications services and products primarily to small to medium size businesses, residential and wholesale customers. The Company performs ongoing credit evaluations of both its retail and wholesale customers. The Company generally does not require collateral, however when circumstances warrant, deposits are required. Recent conditions in the telecommunications industry have given rise to an increase in potential doubtful accounts. Allowances are maintained for such potential credit losses. The Company has entered into offset arrangements with certain of its customers, who are also vendors, allowing for the ability to offset receivables against the Company's payables balance.

Stock-Based Compensation - The Company has adopted the disclosure provisions of Statement of Financial Accounting Standards ("SFAS") No. 123, amended by SFAS No. 148, "Accounting for Stock-Based Compensation - Transition and Disclosure - an amendment of FASB Statement No. 123". This Statement amends the disclosure requirements of SFAS No. 123 to require prominent disclosures in the summary of significant accounting policies in the financial statements. The Company adopted the disclosure requirements of SFAS No. 148 effective January 31, 2003. There was no impact on the Company's basic financial statements resulting from its adoption.

The following disclosure complies with the adoption of this statement and includes pro forma net loss as if the fair value based method of accounting had been applied.

COVISTA COMMUNICATIONS, INC. AND SUBSIDIARIES  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)  
FOR THE YEARS ENDED JANUARY 31, 2003, 2002 AND 2001

(in thousands except per share amounts)

	Year Ended January 31		
	2003	2002	2001
Net loss as reported	\$ (9,407)	\$ (11,970)	\$ (8,629)
Stock based employee compensation included in reported net loss	--	--	--
Total stock-based employee compensation (expense) benefit determined under fair value based method for all options	(692)	1,133	(259)
Pro forma net loss	\$ (10,099)	\$ (10,837)	\$ (8,886)
Basis loss per share			
As reported	\$ (0.71)	\$ (1.17)	\$ (1.18)
Pro forma	(0.76)	(1.06)	(1.23)
Diluted loss per share			
As reported	\$ (0.71)	\$ (1.17)	\$ (1.18)
Pro forma	(0.76)	(1.06)	(1.23)

The fair value of the option grants is estimated based on the date of grant using the Black-Scholes option-pricing model with the following weighted-average assumptions used for grants in fiscal 2003, 2002, and 2001: dividend yield of 0.00% for the three years; expected volatility 153.33%, 165.18% and 62.23% respectively; risk-free interest rate of 2.0%, 6.47%, and 7.85% respectively; and expected lives of 3 to 5 years for each of the three years.

Loss per Share - Basic loss per share is represented by net loss available to common shareholders divided by the weighted-average number of common shares outstanding during the period. Diluted loss per share reflects the potential dilution that could occur if securities or stock options were exercised or converted into Common Stock during the period, if dilutive (see Note 15).

Authorized Common Stock - On February 23, 2000, the Company's shareholders approved an increase in the number of authorized shares of Common Stock from 20,000,000 to 50,000,000 shares.

Cash and Cash Equivalents - The Company considers all highly liquid investments purchased with an original maturity of three months or less to be cash equivalents. Cash and cash equivalents consist of cash on hand, demand deposits and money market accounts.

Income Taxes - Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax basis. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. In the event the future tax consequences of differences between the financial reporting bases and the tax bases of Covista's assets and liabilities result in deferred tax assets, an evaluation of the probability of being able to realize the future benefits indicated by such asset is required. A valuation allowance is provided for a portion of the deferred tax assets when it is more likely than not that some portion or all of the deferred tax assets will not be realized. In assessing whether deferred tax assets can be realized, management considers the scheduled reversals of deferred tax liabilities, projected future taxable income, and tax-planning strategies.



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Fair Value of Financial Instruments - For cash and cash equivalents, the carrying value is a reasonable estimate of its fair value. The estimated fair value of publicly traded financial instruments is determined by the Company using quoted market prices, dealer quotes and prices obtained from independent third parties. For financial instruments not publicly traded, fair values are estimated based on values obtained from independent third parties or quoted market prices of comparable instruments. The fair value of the debt was determined based on interest rates that are currently available to the Company for issuance of debt with similar terms and remaining maturities for debt issues that are not traded on quoted market prices. However, judgment is required to interpret market data to develop the estimates of fair value. Accordingly, the estimates are not necessarily indicative of the amounts that could be realized in a current market exchange.

The carrying values were approximately equal to the fair values of financial instruments as of January 31, 2003 and 2002.

Long-Lived Assets - The Company accounts for the impairment of long-lived assets and for long-lived assets to be disposed of by evaluating the carrying value of its long-lived assets in relation to the operating performance and future undiscounted cash flows of the underlying businesses annually and when indications of impairment are present. Long-lived assets to be disposed of, if any, are evaluated in relation to the net realizable value. If impairment is indicated, the amount of the impairment is typically calculated using discounted expected future cash flows. The discount rate applied to these cash flows is based on the Company's weighted average cost of capital. If the carrying value of the asset exceeds the fair value of the asset, the difference will be charged to the results of operations in the period that the impairment occurred.

#### Recent Accounting Pronouncements

In June 2001, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards No. 141 ("SFAS 141"), "Business Combinations." SFAS 141 requires the purchase method of accounting for business combinations initiated after June 30, 2001 and eliminates the pooling-of-interests method. As of January 31, 2003 Covista has approximately \$8,206,000 of Goodwill recorded on its books.

In June 2001, the FASB issued Statement of Financial Accounting Standards No. 142 ("SFAS 142"), "Goodwill and Other Intangible Assets", which is effective February 1, 2002. SFAS 142 requires, among other things, the discontinuance of goodwill amortization. In addition, the standard includes provisions for the reclassification of certain existing recognized intangibles as goodwill, reassessment of the useful lives of existing recognized intangibles, reclassification of certain intangibles out of previously reported goodwill and the identification of reporting units for purposes of assessing potential future impairments of goodwill. Covista did not have any Goodwill as of the adoption of SFAS 142.

In June 2001, the FASB issued Statement of Financial Accounting Standards No. 143 ("SFAS 143"), "Accounting for Asset Retirement Obligations", which is effective for all fiscal years beginning February 1, 2003. SFAS 143 requires recording the fair value of a liability for an asset retirement obligation in the period in which it is incurred, and a corresponding increase in the carrying value of the related long-lived asset. Over time, the liability is accreted to its present value each period, and the capitalized cost is depreciated over the useful life of the related asset. Upon settlement of the liability, it is either settled for its recorded amount or a gain or loss upon settlement is recorded. The Company believes that the adoption of SFAS 143 will not have a significant impact on the financial position, results of operation, or cash flows of Covista.

In August 2001, the FASB issued Statement of Financial Accounting Standards No. 144 ("SFAS 144"), "Accounting for the Impairment or Disposal of Long Lived Assets", which is effective February 1, 2002. SFAS 144 replaces the Statement of Financial Accounting Standards No. 121, "Accounting for the Impairment of Long Lived Assets and for Long-Lived Assets to be Disposed Of". SFAS 144 requires that long-lived assets be measured at the lower of the carrying amount or fair value, less cost to sell, whether included in continuing operations or in discontinued operations. The adoption of SFAS 144 did not had a material impact on Covista's financial position or results of operations.

In June 2002, the FASB issued Statement of Financial Accounting Standards No. 146, "Accounting for Costs Associated with Exit or Disposal Activities." SFAS 146 requires that a liability for a cost that is associated with an exit or disposal activity be recognized when the liability is incurred. SFAS 146 also establishes that fair value is the objective for the initial measurement of the liability. SFAS 146 is effective for exit or disposal activities that are initiated after December 31, 2002. Covista does not believe the adoption will have a material impact on its financial position or results of operations.

In November 2002, the FASB issued FASB Interpretation No. 45 ("FIN 45"), "Guarantees," an interpretation of FASB Statement No. 5, "Accounting for Contingencies." This interpretation elaborates on the disclosures to be made by a guarantor in its interim and annual financial statements about its obligations under certain guarantees that it has issued. The disclosure provisions of FIN 45 are effective for these statements and have no effect on the Company. Covista does not believe that the adoption of the measurement provisions of FIN 45 will have a material impact on its financial position or results of operations.

In December 2002, the FASB issued Statement of Financial Accounting Standards No. 148, "Accounting for Stock-Based Compensation - Transition and Disclosure - an amendment of SFAS 123." SFAS 148 is effective for fiscal years ending after December 15, 2002 and provides for additional annual and interim financial statement disclosures. The adoption has not had a material impact on the Company's financial position or results of operations.

In January 2003, FASB issued FASB Interpretation No. 46, Consolidation of Variable Interest Entities ("FIN 46"). FIN 46 requires a variable interest entity to be consolidated by a company if that company is subject to a majority of the risk of loss from the variable interest entity's activities or entitled to receive a majority of the entity's residual returns or both. FIN 46 also requires disclosures about variable interest entities that a company is not required to consolidate but in which it has a significant variable interest. Covista does not believe the adoption will have a material impact on its financial position or results of operations.

### 3. SEGMENT REPORTING

The Company sells telecommunication services to three distinct segments: a retail segment, consisting primarily of small to medium size businesses, a wholesale segment, with sales to other telecommunications carriers and KISSLD which targets residential users.

In addition to direct costs, each segment is allocated a proportion of the Company's operating expenses, including utilization of its switch and facilities. The allocation of expenses is based upon the minutes of use flowing through the Company's switching network. There are no intersegment sales. When specifically identified, assets are allocated to each segment. All intangible assets and goodwill have been allocated to the retail segment. Capital expenditures are allocated based on sales. Other assets are allocated based on total revenue. Management evaluates performance on operating results of the three business segments.

Summarized financial information concerning the Company's reportable segments is shown in the following table.

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	<u>Retail</u>	<u>Wholesale</u>	<u>KISSLD</u>	<u>Total</u>
<b>2003</b>				
Net Sales	\$ 75,454,835	\$ 12,514,438	\$ 12,990,418	\$ 100,959,692
Operating profit (loss)	\$ (7,426,717)	\$ (2,570,584)	\$ 830,305	\$ (9,166,996)
Assets	\$ 41,494,950	\$ 5,046,068	\$ 4,509,380	\$ 51,050,398
Capital expenditures	\$ 1,153,165	\$ 191,256	\$ 198,531	\$ 1,542,952
<b>2002</b>				
Net Sales	\$ 47,423,502	\$ 47,889,194	--	\$ 95,312,696
Operating profit (loss)	\$ (7,013,376)	\$ (5,148,61)	--	\$ (12,161,994)
Assets	\$ 17,243,594	\$ 14,013,197	--	\$ 31,256,791
Capital expenditures	\$ 2,719,313	\$ 2,746,016	--	\$ 5,465,329
<b>2001</b>				
Net Sales	\$ 53,487,012	\$ 79,743,425	--	\$ 133,230,437
Operating profit (loss)	\$ (6,541,566)	\$ (2,192,043)	--	\$ (8,733,609)
Assets	\$ 15,696,137	\$ 23,401,26	--	\$ 39,097,402
Capital expenditures	\$ 1,295,757	\$ 1,931,836	--	\$ 3,227,593

#### 4. INVESTMENT SECURITIES

Investments available for sale in Fiscal 2002 consisted of a \$25,000 bond and a mutual fund with a cost and market value of approximately \$415,000 at January 31, 2002. The mutual fund investment was sold during Fiscal 2003. The bond will mature in 2005 and was reclassified to other long-term assets in 2003.

#### 5. PROPERTY AND EQUIPMENT

Property and equipment consists of:

<u>Classification</u>	<u>2003</u>	<u>2002</u>
Machinery and equipment	\$ 21,285,940	\$ 17,064,974
Leasehold Improvements	1,554,662	1,497,811
Office furniture, fixtures and equipment	3,080,588	2,672,237
Vehicles	181,256	181,256
Computer equipment and software	8,590,964	7,325,243
Machinery and equipment in progress	2,770,940	2,102,897
	<hr/>	<hr/>
	37,464,350	30,844,416
Less accumulated depreciation and amortization	(22,313,934)	(18,354,790)
	<hr/>	<hr/>
	\$ 15,150,416	\$ 12,489,626
	<hr/>	<hr/>

Depreciation and amortization expense related to property and equipment for the years ended January 31, 2003, 2002 and 2001, was \$3,959,144, \$3,658,244, and \$3,433,004 respectively.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (continued)  
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6. ACQUISITION OF CAPSULE COMMUNICATIONS

On February 8, 2002, Covista Communications, Inc. ("Covista") completed the merger (the "Merger") of its wholly owned subsidiary CCI Acquisitions, Inc. ("CCI") with and into Capsule Communications, Inc. ("Capsule"), pursuant to the Agreement and Plan of Reorganization dated as of July 17, 2001 among Covista, CCI and Capsule (the "Merger Agreement") through the issuance of 1,742,320 shares of Common Stock and the assumption of certain liabilities and stock options. As a result of the Merger, Capsule became a wholly owned subsidiary of Covista. The Company has accounted for the combination with Capsule as a purchase business combination under SFAS 141("Business Combination"). Capsule is a switch-based interexchange carrier providing long distance telephone communications services primarily to small and medium-size business customers as well as residential accounts.

The results of Capsule's operations have been included in the Company's Consolidated Statement of Loss and Comprehensive Loss since the date of merger. The total purchase price including certain direct costs was approximately \$12,972,000 plus assumed liabilities of approximately \$10,057,000. Included in the purchase, the Company assumed options from Capsule for the purchase of 286,975 shares of Common Stock valued at approximately \$1.1 million using the Black-Scholes Valuation Model, using an exercise price of \$3.49 to \$20.10, expected lives of 0.5 to 2 years, 156% volatility, 2.69% discount rate, and a Company stock price of \$6.71. In addition, the Company incurred approximately \$0.3 million in acquisition expenses.

The Company's allocation of the purchase price is based on final appraisal of fair value. The following table summarizes the fair values of the assets acquired and liabilities assumed at the merger date.

Cash	\$ 1,179,172
Current assets	5,717,428
Property and equipment	3,544,981
Other assets	191,199
Intangible assets	4,190,000
Goodwill	8,205,850
Total assets acquired	<u>23,028,630</u>
Current liabilities	<u>(10,056,503)</u>
Total purchase price	<u>\$12,972,127</u>

The identifiable intangible assets acquired from Capsule were classified as its business customer relationships valued at \$1,288,000, its residential customer relationships valued at \$376,000, and its agent relationships valued at \$2,526,000. These intangibles are being amortized using the straight-line method over a weighted average period of 40 months. Goodwill and intangible assets acquired are not deductible for tax purposes.

The unaudited pro forma information below represents the consolidated results of operations as if the acquisition with Capsule had occurred as of February 1, 2002 and 2001. The unaudited pro forma information has been included for comparative purposes and is not indicative of the actual results of operations of the consolidated Company, had the merger occurred as of February 1, 2001, nor is it necessarily indicative of future results.

FOR THE YEARS ENDED JANUARY 31, 2003, 2002 AND 2001

	Twelve Months Ended	
	<u>January 31, 2003</u>	<u>January 31, 2002</u>
Total Revenue	\$ 101,772,641	\$ 132,289,342
Loss attributable to common stockholders	(9,314,836)	(12,850,871)
Basic net loss per common share	(0.70)	(1.07)

7. INCOME TAXES

The provision (benefit) for income taxes includes the following:

	2003	2002
Federal		
Current	\$ (511,220)	--
Deferred	--	--
State income taxes	--	--
Current	--	--
Deferred	--	--
	<u>\$ (511,220)</u>	<u>\$ --</u>

Deferred income taxes reflect the net tax effects of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for income tax purposes. Valuation allowances are provided against assets that are not likely to be realized.

The income tax effects of significant items comprising the Company's net deferred tax asset (liability) are as follows:

	2003		2002	
	<u>Current</u>	<u>Long Term</u>	<u>Current</u>	<u>Long Term</u>
Deferred tax assets				
Allowance for doubtful accounts	\$ 426,925	\$ --	\$ 1,991,860	\$ --
Accrued compensation expense	50,632	--	--	268,130
Accrued expenses	109,276	--	332,560	--
Net operating loss carry forward	--	18,022,750	--	10,877,719
Alternative minimum tax credit	--	--	--	593,940
Other	26,997	--	74,550	--
Total gross deferred tax assets	<u>613,830</u>	<u>18,022,750</u>	<u>2,398,970</u>	<u>11,739,789</u>
Less: valuation allowance	(613,830)	(14,443,977)	(2,398,970)	(9,539,179)
Total net deferred tax asset	<u>--</u>	<u>3,578,773</u>	<u>--</u>	<u>2,209,610</u>
Deferred tax liabilities:				
Property and equipment	--	(2,050,653)	--	(2,209,610)
Other	--	(1,528,120)	--	--
Total deferred tax liabilities	<u>--</u>	<u>(3,578,773)</u>	<u>--</u>	<u>(2,209,610)</u>
Net deferred tax asset (liability)	<u>\$ --</u>	<u>\$ --</u>	<u>\$ --</u>	<u>\$ --</u>

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A reconciliation from the U.S. statutory tax rate of 34% to the effective tax rate for income taxes on the consolidated statements of loss is as follows:

	2003	2002	2001
Computed expense at statutory rates	\$ (3,553,921)	\$ (4,069,660)	\$ (2,933,963)
(Reductions) increase in taxes resulting from:			
Tax exempt interest income	--	(550)	(3,140)
State taxes (benefit), net of federal income tax benefit	(626,404)	(708,853)	(513,164)
Valuation allowance	3,119,659	4,522,609	3,703,659
Other	549,446	(256,454)	(253,392)
	<u>\$ (511,220)</u>	<u>\$ --</u>	<u>\$ --</u>

At January 31, 2003, for Federal income tax purposes, the Company had net operating loss carryforwards of approximately \$44,000,000, which will begin to expire in stages in the year 2009.

The utilization of these net operating loss carryforwards and realization of tax benefits depends predominantly upon the Company's having taxable income in future years. Further, the utilization of approximately \$22,000,000 of these net operating loss carryforwards is subject to annual limitation as a result of a change in ownership, as defined under Section 382 of the Internal Revenue Code. The limitation does not reduce the total amount of such net operating losses that may be taken, but rather substantially limits the amount that may be used during a particular year. In addition, the net operating losses generated by Capsule Communications, Inc. prior to February 8, 2002, which approximate \$12,000,000, can be utilized only to the extent it generates taxable income in future years. Any future benefits attributable to all of the Company's net operating loss carryforwards may be reduced upon further changes in ownership.

#### 8. LEASE COMMITMENTS

The Company rented various facilities under lease agreements classified as operating leases. Several of the underlying agreements contained certain incentives eliminating payments at the inception of the lease. Lease incentives are amortized on a straight-line basis over the entire lease term. Under terms of these leases, the Company is required to pay its proportionate share of increases in real estate taxes, operating expenses and other related costs.

The Company leased warehouse space in Belleville, New Jersey from a partnership in which two of the partners were directors and major shareholders of the Company. Both partners are no longer directors. During the fiscal years ended January 31, 2002, 2001 and 2000, the Company paid rent of \$21,530, \$49,479 and \$62,848, respectively to the partnership. The lease expired on November 30, 1998, and had been renewed, subject to termination upon 120-days prior written notice by either party. The lease was amended on August 31, 1999 to provide an annual rate of \$47,980. The lease terminated during the fiscal year ended January 31, 2002.

On September 1, 2001, Covista entered into a lease agreement for 28,000 square feet of office space in Chattanooga, Tennessee, with Henry G. Luken III who is Covista's Chairman of the Board and its principal shareholder. The term of the lease is for five years beginning September 1, 2001. The lease provides for annual rent of \$86,400 from September 1, 2001 to August 30, 2002; \$115,200 from September 1, 2002 to August 30, 2003; \$144,000 from September 1, 2003 to August 30 2004, with the last two years to be \$144,000 annually adjusted for the Consumer Price Index.

On December 1, 2001, Covista entered into a lease for property located at 806 East Main Street, Chattanooga, Tennessee, for use as a switching facility. The lessor is Henry G. Luken III, Chairman of the Board and a principal shareholder of Covista. The lease term is 5 years, expiring on November 30, 2006. Annual rent is due as follows: \$22,500 from December 1, 2001 to November 30, 2002, \$27,000 from December 1, 2002 to November 30, 2003, \$31,500 from December 1, 2003 to November 30, 2004, and \$36,000 from December 1, 2004 to November 30, 2005. Rental amounts for months beginning after October 1, 2005 will be adjusted upward for the U.S. Consumer Price Index. The lease may be renewed for an additional 5 years with 90 days' written notice prior to the lease expiration date.

On October 1, 2002, Covista entered into a lease for Suite 200 at 721 Broad Street, Chattanooga, Tennessee, for use as offices for Corporate Headquarters. The lessor is Henry G. Luken III, Chairman of the Board and a principal shareholder of Covista. The lease term is 5 years terminating on November 30, 2007. Annual rent is due as follows: Year 1 = \$101,674, Year 2 = \$111,670, Year 3 = \$120,000, Year 4 = \$120,000, Year 5 = \$120,000. Rental amounts for months beginning after October 1, 2005 will be adjusted upward for the U.S. Consumer Price Index. The lease may be renewed for an additional 5 years with 90 days' written notice prior to the lease expiration date.

In July 2001, Covista entered into an approximately \$1,245,000 sale and leaseback transaction whereby Covista sold and leased back telecommunications switching equipment purchased earlier in the current fiscal year. The equipment was sold for the original purchase price. The term is three years and Covista has an option to repurchase the equipment at fair market value upon lease termination. The related lease is being accounted for as an operating lease.

In November 2001, Covista negotiated another sale and leaseback transaction for a second telecommunications switch for approximately \$1,092,700. The lease contract is similar to the first transaction, with a term of three years with an option to repurchase the equipment at fair market value upon lease termination. The second lease is also accounted for as an operating lease.

Future minimum annual rentals on these leases as of January 31, 2003 are as follows:

Year ending January 31,	Annual Minimum Rentals
2004	\$ 2,149,745
2005	1,561,038
2006	772,632
2007	492,697
2008	409,250
2008 and thereafter	1,637,846
TOTAL	<u>\$ 7,023,208</u>

Rental expense for the years ended 2003, 2002 and 2001 was approximately \$ 2,945,000, \$2,355,000 and \$1,500,000, respectively.

## 9. EMPLOYEE BENEFIT PLANS

The Company has established a savings incentive plan for substantially all employees of the Company, which is qualified under section 401(k) of the Internal Revenue Code. The savings plan provides for contributions to an independent trustee by both the Company and its participating employees. Under the plan, employees may contribute up to 15% of their pretax base pay. The Company matches 50% of the first 6% of participant contributions.

Participants vest immediately in their own contributions and over a period of five years for the Company's contributions. Company contributions were approximately \$148,000, \$162,000 and \$95,000, for the years ended January 31, 2003, 2002 and 2001, respectively.

## 10. STOCK OPTION PLANS

The Company has four stock option plans authorizing the granting of either Incentive Stock Options or Nonqualified Stock Options. The 1996 Stock Option Plan (the "1996 Plan") provides for the issuance of an aggregate of not more than 600,000 shares of the Company's Common Stock. The 1999 Equity Incentive Plan (the "1999 Plan") provides for the issuance of an aggregate of not more than 750,000 shares of the Company's Common Stock. The 2001 Equity Incentive Plan (the "2001 Plan") provides for the issuance of an aggregate of not more than 900,000 shares of the Company's Common Stock. The 2002 Equity Incentive Plan (the "2002 Plan") provides for the issuance of an aggregate of not more than 750,000 shares of the Company's Common Stock. The Capsule Equity Incentive Plan (the "Capsule Plan") provides for the issuance of an aggregate of not more than 286,975 shares of the Company's Common Stock. The 1987 Plan is disclosed for prior year information purposes.

Incentive Stock Options granted pursuant to the Plans must have an exercise price equal to the fair market value of the Company's Common Stock at the time the option is granted, except that the price shall be at least 110% of the fair market value where the option is granted to an employee who owns more than 10% of the combined voting power of all classes of the Company's voting stock.

Nonqualified Stock Options granted pursuant to the Plans must have an exercise price equal to at least 50% of the fair market value of the Company's Common Stock at the time the option is granted. Incentive Stock Options may be granted only to employees. Nonqualified Stock Options may be granted to employees as well as directors, independent contractors and agents, as determined by the Board of Directors. All options available to be granted under the 1996 Plan, totaling 54,750 at January 31, 2003, must be granted by October 10, 2006. All options available to be granted under the 1999 Plan, totaling 320,725 at January 31, 2003, must be granted by February 23, 2009. All options available to be granted under the 2001 Plan, totaling 289,458 at January 31, 2003, must be granted by February 8, 2012. All options available to be granted under the 2002 Plan, totaling 547,000 at January 31, 2003 must be granted by December 19, 2012.

On February 23, 2000, the Board of Directors adopted a resolution allowing the Company to reprice all outstanding options granted under the 1996 and 1999 Plans. All outstanding options, approximately 243,000 net of cancellations, which were originally granted at prices ranging from \$14.63 to \$21.50 per share, were repriced to \$14.25 per share. Accordingly, the option prices per share and weighted average exercise price in the following 1996 Plan and 1999 Plan tables have been restated to reflect the \$14.25 exercise price. All other terms and conditions, including vesting periods remain unchanged. The repriced options are subject to variable plan accounting and as a result there was no income statement effect of these options in the year ended January 31, 2003, January 31, 2002, and January 31, 2001 due to the decrease in the Company's stock price below the new exercise price.



On February 1, 2001, 35 employees were given the opportunity to cancel 248,200 options to purchase Common Shares. All 35 agreed to cancel the options. On August 2, 2001 248,200 options to purchase Common Shares were issued at the then closing market price of \$5.65 per share.

As part of the Capsule acquisition, each Capsule stock option was converted into options to purchase shares of Covista Common Stock. Under the Capsule stock option plans, options were granted to officers and employees of Capsule. No option was granted for a term in excess of ten years from the date of grant. The Capsule stock options were fully vested on the date of acquisition. The options if not exercised, expire up to 5 years after the date of grant.

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Information regarding options under the 1987 Plan is as follows:

	Option Price Per Share	Outstanding	Exercisable	Weighted Average Exercise Price
January 31, 1999 balance	\$0.51-\$4.81	310,000	310,000	\$1.77
Exercised	\$0.51-\$4.81	(211,000)	(211,000)	\$2.25
January 31, 2000 balance	\$0.51-\$1.00	99,000	99,000	\$0.75
Exercised	\$0.51	(16,500)	(16,500)	\$0.51
January 31, 2001 balance	\$0.51-\$1.00	82,500	82,500	\$0.80
Exercised	\$1.00	(16,500)	(16,500)	\$1.00
Cancelled	\$0.51-\$1.00	(66,000)	(66,000)	\$0.80
January 31, 2002 balance	--	--	--	--

Information regarding options under the 1996 Plan is as follows:

	Option Price Per Share	Outstanding	Exercisable	Weighted Average Exercise Price
January 31, 2000 balance	\$10.00-\$14.25	344,000	97,183	\$14.06
Became exercisable	\$14.25	--	18,184	\$14.25
Cancelled	\$14.25	(259,600)	(64,000)	\$14.25
January 31, 2001 balance	\$10.00-\$14.25	84,400	51,367	\$13.50
Granted	\$2.00	523,000	--	\$2.00
Became exercisable	\$2.00	--	101,000	\$2.00
Cancelled	\$2.00-\$14.25	(259,400)	(51,367)	\$5.74
Exercised	\$2.00	(5,000)	(5,000)	\$2.00
January 31, 2002 balance	\$2.00	343,000	96,000	\$2.00
Became exercisable	\$2.00	--	247,000	\$2.00
Exercised	\$2.00	(5,000)	(5,000)	\$2.00
January 31, 2003 balance	\$2.00	338,000	338,000	\$2.00

Information regarding options under the 1999 Plan is as follows:

	Option Price Per Share	Outstanding	Exercisable	Weighted Average Exercise Price
January 31, 2000 balance	\$14.25	521,000	48,000	\$14.25
Granted	\$14.25	365,100	--	\$14.25
Became exercisable	\$14.25	--	92,375	\$14.25
Cancelled	\$14.25	(372,600)	(48,000)	\$14.25
January 31, 2001 balance	\$14.25	513,500	92,375	\$14.25
Granted	\$2.00-\$7.00	558,400	--	\$3.76
Became exercisable	\$2.00-\$3.50	--	8,433	\$2.02
Cancelled	\$3.00-\$14.25	(573,000)	(89,175)	\$12.93
Exercised	\$2.00-\$3.50	(8,433)	(8,433)	\$2.02
January 31, 2002 balance	\$2.00-\$14.25	490,467	3,200	\$4.00
Became exercisable	\$2.00-\$14.25	--	425,975	\$3.50
Cancelled	\$3.00-\$14.25	(61,292)		\$12.00
Exercised	\$2.00-\$3.50	(41,875)	(41,875)	\$2.11
January 31, 2003 balance	\$2.00-\$14.25	387,300	387,300	\$4.09

Information regarding options under the 2001 Plan is as follows:

	Option Price Per Share	Outstanding	Exercisable	Weighted Average Exercise Price
January 31, 2001 balance	--	--	--	--
Granted	\$2.00-\$6.71	855,500	--	\$4.02
Became exercisable	\$2.00-\$5.65	--	213,899	\$4.26
Cancelled	\$5.65	(2,900)	--	\$5.65
January 31, 2002 balance	\$2.00-\$6.71	852,600	213,899	\$4.02
Granted	\$5.00	41,000	--	\$5.00
Became exercisable	\$2.00-\$5.65	--	355,643	\$3.68
Cancelled	\$2.00-\$5.65	(283,058)		\$4.90
Exercised	\$2.00-\$5.65	(78,842)	(78,842)	\$2.55
January 31, 2003 balance	\$2.00-\$6.71	531,700	490,700	\$2.95

Information regarding options under the 2002 Plan is as follows:

	Option Price Per Share	Outstanding	Exercisable	Weighted Average Exercise Price
January 31, 2002 balance	\$--	--	--	\$--
Granted	\$2.87	203,000	--	\$2.87
January 31, 2003 balance	\$2.87	203,000	--	\$2.87

Information regarding options under the Capsule Plan is as follows:

	Option Price Per Share	Outstanding	Exercisable	Weighted Average Exercise Price
January 31, 2002 balance	--	--	--	--
Granted	\$3.49-\$24.20	286,975	286,975	\$10.38
Cancelled	\$3.49-\$24.20	(49,656)	(49,656)	\$15.72
Exercised	\$3.49	(23,763)	(23,763)	\$3.49
January 31, 2003 balance	\$3.49-\$20.45	213,556	213,556	\$9.90

The following table summarizes information about options outstanding as of January 31, 2003 under the 1996, 1999, 2001, 2002, and Capsule Plans:

Range of exercise prices	Outstanding			Exercisable	
	Number of Shares Outstanding	Average Remaining Contractual Life	Weighted Average Exercise Price	Number of Shares Outstanding	Weighted Average Exercise Price
\$2.00-\$7.00	1,546,515	5.0	\$3.11	1,302,515	\$3.06
\$7.01-\$20.45	126,963	1.90	\$14.51	126,963	\$14.51

## 11. STOCK GRANTS

The Company, at the discretion of the Board of Directors, has awarded from time to time to management personnel shares of its Common Stock at par value. These shares vest over a period of three to five years. The Company awarded 0 shares, 0 shares and 0 shares of its Common Stock and recorded compensation expense of \$0, \$ 12,011 and \$266,565 for the years ended January 31, 2003, 2002 and 2001, respectively.

## 12. VENDOR DISPUTES AND ACCRUED LINE COST ESTIMATES

In the normal course of business, Covista files disputes with its service providers. The Covista accounting policy, followed on a consistent basis, is to record the invoiced amount to cost of sales, which may include disputed amounts. When the dispute is resolved and the credit is received, the amount reduces cost of sales. During the fiscal year ended January 2003, Covista obtained net credits of approximately \$3.4 million for resolved disputes. These credits reduced cost of sales and the corresponding accounts payable and accrued liability. Open and unresolved disputes included in accounts payable and accrued liabilities totaled approximately \$5.2 million at January 31, 2003.

In the normal course of business, Covista uses certain estimates to determine its monthly cost of sales ("line cost") and corresponding accounts payable to these service providers. These line costs include fees for network transport, access, egress and facility charges. The Covista accounting policy provides that changes in the accrued cost of sales estimates will be adjusted to actual amounts as soon as the actual liabilities are fixed and determinable. These adjustments to actual expense are typically identified within 90 days following the period of estimate.

### 13. LONG-TERM DEBT

The Company has a revolving \$2,000,000 credit facility with Wells Fargo Business Credit Corporation, which was renegotiated and amended on May 11, 2002, which expires on May 11, 2004. Interest on the revolving credit facility is currently calculated at the prime lending rate plus 2 3/4%, on a minimum loan balance of \$750,000. The loan is collateralized by accounts receivable and fixed and intangible assets of the Company. As of January 31, 2003, the Company's outstanding balance on this credit facility was \$1,559,172 leaving approximately \$440,000 available based on collateral, for future borrowing under the credit facility. The entire balance is classified as current. Subsequent to January 31, 2003, this facility was terminated and paid in full with proceeds from a new credit facility. See footnote 19.

On June 17, 2002, Covista entered into a term loan agreement with a major bank. The initial principal amount of this note was \$3,775,000, payable in 36 monthly installments at a fixed interest rate of 4.495% for the first year and converting to 2% over LIBOR on June 17, 2003 and thereafter. This note is secured by certain of the Company's switching equipment and Certificates of Deposit provided by Covista's Chairman of the Board. The balance on this facility was \$3,079,586 at January 31, 2003 of which \$1,268,827 is classified as current.

On July 2, 2001, Covista received a loan from Henry G. Luken III, its Chairman of the Board and principal shareholder, in the amount of \$4,000,000. The loan was scheduled to mature on February 1, 2003 together with accumulated interest at a rate of 8% per annum. The proceeds of the loan were used to purchase a 10-year commitment for approximately 2.8 billion DS-0 channel miles of telecommunications network capacity from an unaffiliated party. The current portion of prepaid network capacity is included in prepaid expenses. The long-term portion is included in Intangible Assets. The cost will be amortized to operations based upon the greater of capacity use or straight line over the term of the agreement. The unaffiliated party has recently filed for Chapter 11 Reorganization; however at January 31, 2003, is continuing to perform under the agreement. Mr. Luken also advanced the Company, \$400,000, the proceeds of which were used for construction of new facilities. The agreement calls for interest to be accrued at a rate of 8% per annum. The total balance of the liability was \$4,400,000 plus accrued interest at January 31, 2002. During Fiscal 2003, Mr. Luken loaned the Company an additional \$2,600,000. The \$7,000,000 note was converted to common stock at \$2.87 per share, which was the market price on the date of approval in December of 2002 (note 18).

As of January 31, 2002, Covista owed a remaining balance of \$381,405 loan payable to a New Jersey bank, all of which was classified as current. The interest rate on the term loan was 7.71% and was payable in scheduled monthly installments of \$55,923. The term loan requires the Company to meet certain covenants. The term loan is collateralized by certain of the Company's machinery and equipment. This balance was paid in full during fiscal 2003.

### 14. COMMITMENTS AND CONTINGENCIES

The Company is involved in various legal and administrative actions arising in the normal course of business. While the resolution of any such actions may have an impact on the financial results for the period in which it is resolved, management believes that the ultimate disposition of these matters will not have a material adverse effect upon its consolidated results of operations, cash flows or financial position.

### 15. LOSS PER SHARE

Basic loss per share was computed by dividing net loss by the weighted average number of shares of Common Stock outstanding during each year. Outstanding stock options to purchase shares of

Common Stock were not included in the computation of diluted loss per share for the fiscal years ended January 31, 2003, 2002, and 2001 because to do so would have been antidilutive.

The reconciliation of the loss and common shares included in the computation of basic loss per common share and diluted loss per common share for the years ended January 31, 2003, 2002 and 2001 is as follows:

	2003			2002			2001		
	Loss	Shares	Per Share Amount	Loss	Shares	Per Share Amount	Loss	Shares	Per Share Amount
Net Loss	\$(9,407,479)			\$(11,969,588)			\$(8,629,304)		
Basic Loss Per Share	(9,407,479)	13,282,858	\$(0.71)	(11,969,588)	10,203,610	\$(1.17)	(8,629,304)	7,324,085	\$(1.18)
Stock Options									
Diluted loss per share	<u>\$(9,407,479)</u>	<u>13,282,858</u>	<u>\$(0.71)</u>	<u>\$(11,969,588)</u>	<u>10,203,610</u>	<u>\$(1.17)</u>	<u>\$(8,629,304)</u>	<u>7,324,085</u>	<u>\$(1.18)</u>

## 16. QUARTERLY FINANCIAL INFORMATION (UNAUDITED)

### Amounts in thousands except per share data

	April 30, 2000	July 31, 2000	October 31, 2000	January 31, 2001
Net sales	\$ 31,792	\$ 34,108	\$ 33,903	\$ 33,427
Operating loss	(1,606)	(1,405)	(2,417)	(3,306)
Net loss	(1,514)	(1,366)	(2,403)	(3,346)
Basic loss per common share	(0.21)	(0.19)	(0.33)	(0.45)
Diluted loss per common share	(0.21)	(0.19)	(0.33)	(0.45)
	April 30, 2001	July 31, 2001	October 31, 2001	January 31, 2002
Net sales	\$ 29,444	\$ 28,892	\$ 20,467	\$ 16,510
Operating income (loss)	(4,863)	42	(1,790)	(5,551)
Net earnings (loss)	(4,592)	86	(1,859)	(5,605)
Basic earnings (loss) per common share	(0.56)	0.01	(0.17)	(0.52)
Diluted earnings (loss) per common share	(0.56)	0.01	(0.17)	(0.52)
	April 30, 2002	July 31, 2002	October 31, 2002	January 31, 2003
Net sales	\$24,548	\$25,681	\$26,773	\$23,958
Operating loss	(2,667)	(3,741)	(298)	(2,461)
Net loss	(2,865)	(3,217)	(431)	(2,895)
Basic loss per common share	(0.23)	(0.25)	(0.03)	(0.19)
Diluted loss per common share	(0.23)	(0.25)	(0.03)	(0.19)

Subsequent to the issuance of the Company's unaudited interim financial statements for the period ended October 31, 2002, the company determined that certain vendor credits related to disputed amounts for telecommunications costs had been received but not properly recorded as a reduction of cost of revenues in the period such vendor credits were received. As a result, the Company had restated its unaudited results of operations data for the second and third fiscal quarters of 2003 from amounts previously reported in the Company's Form 10-Q for those periods to properly account for the vendor credits. A summary of the significant effects of the restatement is as follows (amounts in thousands, except per share data):

	For the quarter ended July 31, 2002		For the quarter ended October 31, 2002	
	<u>As previously reported</u>	<u>As restated</u>	<u>As previously reported</u>	<u>As restated</u>
Operating Loss	\$ (4,131)	\$ (3,741)	\$ (1,259)	\$ (298)
Net Loss	\$ (3,607)	\$ (3,217)	\$ (1,392)	\$ (431)
Loss per share – basic and diluted	\$ (0.28)	\$ (0.25)	\$ (0.11)	\$ (0.03)

#### 17. ACCESS CHARGE SETTLEMENT

In the second quarter of fiscal 2001, the Company received a cash payment of \$1,264,483 from certain Bell Companies in settlement of a class action suit, to which the Company was a party, filed in 1992 relating to alleged overcharges by those companies. The settlement concluded the class action with the Bell Companies. The Company's portion of the settlement was not determined until the second quarter ended July 31, 2000. The cash payment was recorded as a separate line item as a reduction of costs and expenses in the quarter ended July 31, 2000.

#### 18. RELATED PARTY TRANSACTIONS

On February 1, 2001, the Board of Directors of the Company representing a majority ownership of the Company, subject to perfunctory shareholder's approval which was obtained on March 29, 2001, authorized the sale of a total of 3,500,000 shares of Common Stock to the following three persons (the "Purchasers") in the amounts indicated: Kevin Alward, 1,000,000 shares; A. John Leach, 500,000 shares; and Henry G. Luken, III, 2,000,000 shares. The purchase price for the Common Stock to be issued to Messrs. Alward, Leach and Luken is \$2.00 per share, based on the fair market value of shares at February 1, 2001. The stock sale was consummated in April 2001 with the issuance of 3,150,000 shares of common stock. The Board of Directors authorized a decrease of 350,000 shares to be purchased by Mr. Leach.

On February 1, 2001, the Board of Directors of the Company authorized the acquisition of Blink Data Corporation, a telecommunications company, of which Kevin Alward was a principal shareholder, officer and director, for 300,000 shares of the Company's Common Stock valued at the fair market value at March 29, 2001 for total consideration of \$900,000. The primary asset was a customer list, which was fully amortized as of January 31, 2003. The transaction was completed on March 29, 2001.

Jay J. Miller, a Director of Covista, has provided various legal services for Covista during Fiscal 2003. In Fiscal 2003, Covista paid \$57,481 to Mr. Miller for services rendered and accrued for in Fiscal 2003. As of January 31, 2003, Covista owed Mr. Miller \$41,085.

Leon Genet, a Director of Covista, has provided agent services for Covista through his wholly owned Registrant, LPJ, Inc. During Fiscal 2003, LPJ, Inc. was paid commissions of \$78,134.

A proxy statement dated November 19, 2002 and mailed to stockholders on or about November 20, 2002 provided details on a proposal to issue and sell up to 4,360,000 shares of the Company's Common Stock to Henry G. Luken III, Chairman of the Board of Directors of the Company, or a limited number of persons designated by Mr. Luken.

In December 2002, Covista completed the issuance and sale of 4,359,958 shares of Common Stock to Henry G. Luken III, in exchange for conversion of a note payable in the amount of \$7,000,000, the contribution of telecommunication equipment with a fair value of \$3,400,000 and cash of \$2,100,000.

In December 2002, Covista completed the issuance and sale of 500,000 shares of Common Stock to W. Thorpe McKenzie, a Director, in exchange for cash of \$1,433,500.

## 19. SUBSEQUENT EVENTS

Effective April 16, 2003, Covista executed a revolving credit and security agreement along with related documents that provide the Company with an \$8 million revolving loan of which \$7 million is currently available. The remaining \$1 million becomes available upon Covista maintaining twelve consecutive months of positive cash flow as defined in the agreement. This thirty-six month facility allows the Company to borrow funds based on a portion of eligible customer accounts receivable and bears interest at the Prime Rate plus 2.00% with a floor of 6.25%. Interest, unused line and collateral management fees are payable monthly in arrears. Covista is required to maintain certain covenants that include cash velocity and fixed charge coverage ratios as defined in the agreement. The loan is secured by all of the Company's assets. Initial loan proceeds were used to payoff the Wells Fargo facility in full. (See footnote 13)

## COVISTA COMMUNICATIONS, INC. AND SUBSIDIARIES

### Schedule II - Valuation and Qualifying Accounts (Consolidated)

Balance at Beginning of Period	Charged (Credited) to Cost and	Deductions	Balance at End of Period
--------------------------------------	--------------------------------------	------------	-----------------------------



	Expenses			
YEAR ENDED JANUARY 31, 2003				
Reserves and allowances deducted from asset accounts:				
Allowance for uncollectible accounts	\$4,987,130	\$2,754,712	2,172,682(A)	\$5,569,160
Valuation reserve on deferred tax asset	\$11,938,149	\$3,119,658	\$--	\$15,057,807
YEAR ENDED JANUARY 31, 2002				
Reserves and allowances deducted from asset accounts:				
Allowance for uncollectible accounts	\$ 4,075,223	\$ 5,382,384	\$ 4,470,477(A)	\$ 4,987,130
Valuation reserve on deferred tax asset	\$ 7,406,540	\$ 4,531,609	\$ --	\$ 11,938,149
YEAR ENDED JANUARY 31, 2001				
Reserves and allowances deducted from asset accounts:				
Allowance for uncollectible accounts	\$ 1,827,260	\$ 2,346,761	\$ 98,798	\$ 4,075,223
Valuation reserve on deferred tax asset	\$ 3,702,881	\$ 3,703,659	\$ --	\$ 7,406,540
Allowances not deducted:				
Restructuring reserve	\$ 11,995	\$ --	\$ 11,995	\$ --

(A) Represents write-off of accounts receivable against the allowance.

INDEPENDENT AUDITORS' CONSENT

We consent to the incorporation by reference in Registration Statement No. 333-46954 of Covista Communications Inc. on Form S-3 and Registration Statement No.'s 33-64611, 333-79165, 333-72720, 333-82616, and 333-82620 of Covista Communications, Inc. on Form S-8 of our report dated May 15, 2003, appearing in this Annual Report on Form 10-K of Covista Communications, Inc. for the year ended January 31, 2003.

/S/ Deloitte & Touche, LLP  
Atlanta, Georgia  
May 15, 2003

**COVISTA COMMUNICATIONS, INC. AND SUBSIDIARIES**  
**CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**  
**YEARS ENDED JANUARY 31, 2003, 2002 AND 2001**

	Common Shares	Common Stock	Additional Paid- in Capital	Accumulated Deficit	Treasury Stock	Unearned ESOP Shares	Accumulated Other Comprehensive Income	Total
BALANCE AT JANUARY 31, 2000	9,489,320	\$ 474,466	\$ 29,710,494	\$ (2,656,215)	\$ (1,458,550)	\$ (12,225,000)	\$ 161,776	\$ 14,006,971
Unrealized holding gain		--	--	--	--	--	79,531	79,531
Exercise of employee stock options/grants	16,504	825	135,187	--	--	--	--	136,012
Issuance of shares for other assets		--	170,773	--	13,380	--	--	184,153
Forfeiture of stock grants		--	--	--	(270)	--	--	(270)
Net loss		--	--	(8,629,304)	--	--	--	(8,629,304)
<b>BALANCE AT JANUARY 31, 2001</b>	<b>9,505,824</b>	<b>475,291</b>	<b>30,016,454</b>	<b>(11,285,519)</b>	<b>(1,445,440)</b>	<b>(12,225,000)</b>	<b>241,307</b>	<b>5,777,093</b>
Sale of Common Stock	3,150,000	157,500	6,142,500	--	--	--	--	6,300,000
Exercise of employee stock options/grants	29,940	1,497	41,944	--	--	--	--	43,441
Issuance of shares for other assets	299,993	15,000	885,000	--	--	--	--	900,000
Cancellation of ESOP	(600,000)	(30,000)	(12,195,000)	--	--	12,225,000	--	--
Fully vested Stock Grants		--	759,200	--	--	--	--	759,200
Realized gain on sale of investments		--	--	--	--	--	(241,307)	(241,307)
Net loss		--	--	(11,969,588)	--	--	--	(11,969,588)
<b>BALANCE AT JANUARY 31, 2002</b>	<b>12,385,757</b>	<b>\$ 619,288</b>	<b>\$ 25,650,098</b>	<b>\$ (23,255,107)</b>	<b>\$ (1,445,440)</b>	<b>--</b>	<b>--</b>	<b>\$ 1,568,839</b>
Sale of Common Stock	699,996	35,000	1,971,900	--	--	--	--	2,006,900
Sale of Common Stock to Related Party	732,484	36,624	2,063,376	--	--	--	--	2,100,000
Exercise of employee stock options/grants	149,480	7,474	370,073	--	--	--	--	377,547
Issuance of shares to related party for telecommunication equipment	1,185,894	59,295	3,340,705	--	--	--	--	3,400,000
Issuance of shares to related party for debt conversion	2,441,580	122,079	6,877,921	--	--	--	--	7,000,000
Issuance of shares for acquisition of Capsule	1,724,320	86,216	12,560,911	--	--	--	--	12,647,127
Net loss	--	--	--	(9,407,479)	--	--	--	(9,407,479)
<b>BALANCE AT JANUARY 31, 2003</b>	<b>19,319,511</b>	<b>\$ 965,976</b>	<b>\$ 52,834,984</b>	<b>\$ (32,662,586)</b>	<b>\$ (1,445,440)</b>	<b>--</b>	<b>--</b>	<b>\$ 19,692,934</b>

See notes to consolidated financial statements

**EXHIBIT E - PROPOSED TARIFF**

TELECOMMUNICATIONS SERVICES TARIFF

TITLE SHEET

SOUTH DAKOTA TELECOMMUNICATIONS TARIFF

This tariff contains the descriptions, regulations, and rates applicable to the furnishing of service or facilities for Telecommunications Services furnished by Capsule Communications, Inc. ("Capsule"), with principal offices at #2 Greenwood Square, Suite 275, Bensalem, Pennsylvania 19020. This tariff applies for services furnished within the State of South Dakota. This tariff is on file with the South Dakota Public Utilities Commission, and copies may be inspected, during normal business hours, at the company's principal place of business.

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ISSUED:  
ISSUED BY:

EFFECTIVE:  
John Leach, CEO  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020

CAPSULE COMMUNICATIONS, INC.

ORIGINAL SHEET 2

SOUTH DAKOTA PUC TARIFF NO. 1

TELECOMMUNICATIONS SERVICES TARIFF

RESERVED FOR FUTURE USE

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ISSUED:  
ISSUED BY:

EFFECTIVE:  
John Leach, CEO  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020

TELECOMMUNICATIONS SERVICES TARIFFCHECK SHEET

The Sheets of this tariff are effective as of the date shown at the bottom of the respective sheet(s). Original and revised sheets as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this sheet.

<u>SHEET</u>	<u>REVISION</u>
1	Original
2	Original
3	Original
4	Original
5	Original
6	Original
7	Original
8	Original
9	Original
10	Original
11	Original
12	Original
13	Original
14	Original
15	Original
16	Original
17	Original
18	Original
19	Original
20	Original
21	Original
22	Original
23	Original
24	Original
25	Original
26	Original
27	Original
28	Original
29	Original
30	Original
31	Original
32	Original

\* New or Revised Sheet

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ISSUED:

ISSUED BY:

EFFECTIVE:

John Leach, CEO  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020

TELECOMMUNICATIONS SERVICES TARIFF

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ISSUED:

ISSUED BY:

EFFECTIVE:

John Leach, CEO  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020



TELECOMMUNICATIONS SERVICES TARIFFTARIFF FORMAT

A. Sheet Numbering: Sheet numbers appear in the upper right corner of the page. Sheets are numbered sequentially. However, new sheets are occasionally added to the tariff. When a new sheet is added between sheets already in effect, a decimal is added. For example, a new sheet added between pages 11 and 12 would be page 11.1.

B. Sheet Revision Numbers: Revision numbers also appear in the upper right corner of each sheet where applicable. These numbers are used to indicate the most current page version on file with the Commission. For example, 4th Revised Sheet 13 cancels 3rd Revised Sheet 13. Consult the Check Sheet for the sheets currently in effect.

C. Paragraph Numbering Sequence: There are nine levels of paragraph coding. Each level of coding is subservient to its next higher level:

2.  
 2.1  
 2.1.1  
 2.1.1.A  
 2.1.1.A.1  
 2.1.1.A.1.(a)  
 2.1.1.A.1.(a).I  
 2.1.1.A.1.(a).I.(i)  
 2.1.1.A.1.(a).I.(i).(1)

D. Check Sheets: When a tariff filing is made with the Commission, an updated Check Sheet accompanies the tariff filing. The Check Sheet lists the sheets contained in the tariff, with a cross reference to the current Revision Number. When new sheets are added, the Check Sheet is changed to reflect the revision. All revisions made in a given filing are designated by an asterisk (\*). There will be no other symbols used on this sheet if these are the only changes made to it (i.e., the format, etc. remains the same, just revised revision levels on some sheets). The tariff user should refer to the latest Check Sheet to find out if a particular sheet is the most current filed with the Commission.

ISSUED:  
 ISSUED BY:

EFFECTIVE:

John Leach, CEO  
 #2 Greenwood Square, Suite 275  
 Bensalem, Pennsylvania 19020

TELECOMMUNICATIONS SERVICES TARIFF

SYMBOLS

The following are the only symbols used for the purposes indicated below:

- (C) to signify change in regulation
- (D) to signify a deletion
- (I) to signify a rate increase
- (L) to signify material relocated in the tariff
- (N) to signify a new rate or regulation
- (R) to signify a rate reduction
- (T) to signify a change in text, but no change in rate or regulation

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ISSUED:  
ISSUED BY:

EFFECTIVE:  
John Leach, CEO  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020

TELECOMMUNICATIONS SERVICES TARIFFSECTION 1 - TECHNICAL TERMS AND ABBREVIATIONS

Access Line - An arrangement from a local exchange telephone company or other common carrier, using either dedicated or switched access, which connects a Customer's location to the Company's location or switching center.

Authorization Code - A numerical code, one or more of which may be assigned to a Customer, to enable the Company to identify the origin of the Customer so it may rate and bill the call. Automatic number identification (ANI) is used as the authorization code wherever possible.

Commission - Used throughout this tariff to mean the South Dakota Public Utilities Commission.

Customer - The person, firm, corporation or other legal entity which orders the services of the Company and is responsible for the payment of charges and for compliance with the Company's tariff regulations.

Company or Capsule - Used throughout this tariff to mean Capsule Communications, Inc., a Delaware Corporation.

Dedicated Access - The Customer gains entry to the Company's services by a direct path from the Customer's location to the Company's point of presence.

Holiday - New Year's Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day. Holidays shall be billed at the evening rate from 8 a.m. to 11 p.m. After 11 p.m., the lower night rate shall go into effect.

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ISSUED:

ISSUED BY:

EFFECTIVE:

John Leach, CEO  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020

TELECOMMUNICATIONS SERVICES TARIFF

Resp. Org - Responsible Organization or entity identified by a Toll-Free service Customer that manages and administers records in the toll free number database and management system.

Switched Access - The Customer gains entry to the Company's services by a transmission line that is switched through the local exchange carrier to reach the Company's point of presence.

Telecommunications - The transmission of voice communications or, subject to the transmission capabilities of the services, the transmission of data, facsimile, signaling, metering, or other similar communications.

Underlying Carrier - The telecommunications carrier whose network facilities provide the technical capability and capacity necessary for the transmission and reception of Customer telecommunications traffic.

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ISSUED:

ISSUED BY:

EFFECTIVE:

John Leach, CEO  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020

TELECOMMUNICATIONS SERVICES TARIFFSECTION 2 - RULES AND REGULATIONS**2.1 Undertaking of the Company**

This tariff contains the regulations and rates applicable to intrastate interexchange telecommunications services provided by the Company for telecommunications between points within the State of South Dakota. Services are furnished subject to the availability of facilities and subject to the terms and conditions of this tariff in compliance with limitations set forth in the Commission's rules. The Company's services are provided on a statewide basis and are not intended to be limited geographically. The Company offers service to all those who desire to purchase service from the Company consistent with all of the provisions of this tariff. Customers interested in the Company's services shall file a service application with the Company which fully identifies the Customer, the services requested and other information requested by the Company. The Company reserves the right to examine the credit record and check the references of all applicants and Customers. The Company may examine the credit profile/record of any applicant prior to accepting the service order. The service application shall not in itself obligate the Company to provide services or to continue to provide service if a later check of applicant's credit record is, in the opinion of the Company, contrary to the best interest of the Company. The Company may act as the Customer's agent for ordering access connection facilities provided by other carriers or entities when authorized by the Customer, to allow connection of a Customer's location to a service provided by the Company. The Customer shall be responsible for all charges due for such service arrangement.

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ISSUED:  
ISSUED BY:

EFFECTIVE:

John Leach, CEO  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020

TELECOMMUNICATIONS SERVICES TARIFF

- 2.1.1 The services provided by the Company are not part of a joint undertaking with any other entity providing telecommunications channels, facilities, or services, but may involve the resale of the Message Toll Services (MTS) and Wide Area Telecommunications Services (WATS) of underlying common carriers which may be subject to the jurisdiction of this Commission.
- 2.1.2 The rates and regulations contained in this tariff apply only to the services furnished by the Company and do not apply, unless otherwise specified, to the lines, facilities, or services provided by a local exchange telephone company or other common carriers for use in accessing the services of the Company.
- 2.1.3 The Company reserves the right to limit the length of communications, to discontinue furnishing services, or limit the use of service necessitated by conditions beyond its control, including, without limitation: lack of satellite or other transmission medium capacity; the revision, alteration or repricing of the Underlying Carrier's tariffed offerings; or when the use of service becomes or is in violation of the law or the provisions of this tariff.

**2.2 Use of Services**

- 2.2.1 The Company's services may be used for any lawful purpose consistent with the transmission and switching parameters of the telecommunications facilities utilized in the provision of services, subject to any limitations set forth in this Section 2.2.
- 2.2.2 The use of the Company's services to make calls which might reasonably be expected to frighten, abuse, torment, or harass another or in such a way as to unreasonably interfere with use by others is prohibited.

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ISSUED BY:

EFFECTIVE:

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TELECOMMUNICATIONS SERVICES TARIFF

- 2.2.3 The use of the Company's services without payment for service or attempting to avoid payment for service by fraudulent means or devices, schemes, false or invalid numbers, or false calling or credit cards is prohibited.
- 2.2.4 The Company's services are available for use twenty-four hours per day, seven days per week.
- 2.2.5 The Company does not transmit messages, but the services may be used for that purpose.
- 2.2.6 The Company's services may be denied for nonpayment of charges or for other violations of this tariff.
- 2.2.7 Customers shall not use the service provided under this tariff for any unlawful purpose.
- 2.2.8 The Customer is responsible for notifying the Company immediately of any unauthorized use of services.

**2.3 Liability of the Company**

- 2.3.1 The Company shall not be liable for any claim, loss, expense or damage for any interruption, delay, error, omission, or defect in any service, facility or transmission provided under this tariff, if caused by the Underlying Carrier, an act of God, fire, war, civil disturbance, act of government, or due to any other causes beyond the Company's control.
- 2.3.2 The Company shall not be liable for, and shall be fully indemnified and held harmless by the Customer against any claim, loss, expense, or damage for defamation, libel, slander, invasion, infringement of copyright or patent, unauthorized use of any trademark, trade name or service mark, proprietary or creative right, or any other injury to any person, property or entity arising out of the material, data or information transmitted.

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John Leach, CEO  
#2 Greenwood Square, Suite 275  
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TELECOMMUNICATIONS SERVICES TARIFF

- 2.3.3 No agent or employee of any other carrier or entity shall be deemed to be an agent or employee of the Company.
- 2.3.4 Reserved for Future Use
- 2.3.5 Reserved for Future Use
- 2.3.6 Reserved for Future Use

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ISSUED BY:

EFFECTIVE:  
John Leach, CEO  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020



TELECOMMUNICATIONS SERVICES TARIFF**2.4 Responsibilities of the Customer**

- 2.4.1 The Customer is responsible for placing any necessary orders and complying with tariff regulations. The Customer is also responsible for the payment of charges for services provided under this tariff.
- 2.4.2 The Customer is responsible for charges incurred for special construction and/or special facilities which the Customer requests and which are ordered by the Company on the Customer's behalf.
- 2.4.3 If required for the provision of the Company's services, the Customer must provide any equipment space, supporting structure, conduit and electrical power without charge to the Company.
- 2.4.4 The Customer is responsible for arranging access to its premises at times mutually agreeable to the Company and the Customer when required for Company personnel to install, repair, maintain, program, inspect or remove equipment associated with the provision of the Company's services.
- 2.4.5 The Customer shall cause the temperature and relative humidity in the equipment space provided by Customer for the installation of the Company's equipment to be maintained within the range normally provided for the operation of microcomputers.

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TELECOMMUNICATIONS SERVICES TARIFF

- 2.4.6 The Customer shall ensure that the equipment and/or system is properly interfaced with the Company's facilities or services, that the signals emitted into the Company's network are of the proper mode, bandwidth, power and signal level for the intended use of the subscriber and in compliance with criteria set forth in this tariff, and that the signals do not damage equipment, injure personnel, or degrade service to other Customers. If the Federal Communications Commission or some other appropriate certifying body certifies terminal equipment as being technically acceptable for direct electrical connection with interstate communications service, the Company will permit such equipment to be connected with its channels without the use of protective interface devices. If the Customer fails to maintain the equipment and/or the system properly, with resulting imminent harm to Company equipment, personnel or the quality of service to other Customers, the Company may, upon written notice, require the use of protective equipment at the Customer's expense. If this fails to produce satisfactory quality and safety, the Company may, upon written notice, terminate the Customer's service.
- 2.4.7 The Customer must pay the Company for replacement or repair of damage to the equipment or facilities of the Company caused by negligence or willful act of the Customer or others, by improper use of the services, or by use of equipment provided by Customer or others.
- 2.4.8 The Customer must pay for the loss through theft of any Company equipment installed at Customer's premises.
- 2.4.9 If the Company installs equipment at Customer's premises, the Customer shall be responsible for payment of any applicable installation charge.

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EFFECTIVE:

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#2 Greenwood Square, Suite 275  
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TELECOMMUNICATIONS SERVICES TARIFF

2.4.10 The Customer must use the services offered in this tariff in a manner consistent with the terms of this tariff and the policies and regulations of all state, federal and local authorities having jurisdiction over the service.

**2.5 Cancellation or Interruption of Services**

2.5.1 Without incurring liability, upon five (5) working days' (defined as any day on which the company's business office is open and the U.S. Mail is delivered) written notice to the Customer, the Company may immediately discontinue services to a Customer or may withhold the provision of ordered or contracted services:

2.5.1.A For nonpayment of any sum due the Company for more than thirty (30) days after issuance of the bill for the amount due, unless the charge is in dispute;

2.5.1.B For violation of any of the provisions of this tariff,

2.5.1.C For violation of any law, rule, regulation, policy of any governing authority having jurisdiction over the Company's services, or

2.5.1.D By reason of any order or decision of a court, public service commission or federal regulatory body or other governing authority prohibiting the Company from furnishing its services.

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TELECOMMUNICATIONS SERVICES TARIFF

- 2.5.2 Without incurring liability, the Company may interrupt the provision of services at any time in order to perform tests and inspections to assure compliance with tariff regulations and the proper installation and operation of Customer and the Company's equipment and facilities and may continue such interruption until any items of noncompliance or improper equipment operation so identified are rectified.
- 2.5.3 Service may be discontinued by the Company without notice to the Customer, by blocking traffic to certain countries, cities or NXX exchanges, or by blocking calls using certain Customer authorization codes, when the Company deems it necessary to take such action to prevent unlawful use of its service. The Company will restore service as soon as it can be provided without undue risk, and will, upon request by the Customer affected, assign a new authorization code to replace the one that has been deactivated.
- 2.5.4 The Customer may terminate service upon thirty (30) days written notice for the Company's standard month to month contract. Customer will be liable for all usage on any of the Company's service offerings until the Customer actually leaves the service. Customers will continue to have Company usage until the Customer notifies its local exchange carrier and changes its long distance carrier. Until the Customer so notifies its local exchange carrier, it shall continue to generate and be responsible for long distance usage.

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TELECOMMUNICATIONS SERVICES TARIFF

2.6 Credit Allowance

2.6.1 Credit may be given for disputed calls, on a per call basis.

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TELECOMMUNICATIONS SERVICES TARIFF

**2.7 Restoration of Service**

The use and restoration of service shall be in accordance with the priority system specified in part 64, Subpart D of the Rules and Regulations of the Federal Communications Commission.

**2.8 Deposit**

The Company does not require deposits.

**2.9 Advance Payments**

The Company does not require advance payments.

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John Leach, CEO  
#2 Greenwood Square, Suite 275  
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TELECOMMUNICATIONS SERVICES TARIFF**2.10 Payment and Billing**

- 2.10.1 Service is provided and billed on a billing cycle basis, beginning on the date that service becomes effective. Billing is payable upon receipt. A late fee will be assessed on unpaid amounts 30 days after rendition of bills.
- 2.10.2 The customer is responsible for payment of all charges for services furnished to the Customer, as well as to all persons using the Customer's codes, exchange lines, facilities, or equipment, with or without the knowledge or consent of the Customer. The security of the Customer's Authorization Codes, subscribed exchange lines, and direct connect facilities is the responsibility of the Customer. All calls placed using direct connect facilities, subscribed exchange lines, or Authorization Codes will be billed to and must be paid by the Customer. Charges based on actual usage during a month and any accrued interest will be billed monthly in arrears.
- 2.10.3 All bills are presumed accurate, and shall be binding on the customer unless objection is received by the Company in writing within the applicable contract law statute of limitations. No credits, refunds, or adjustments shall be granted if demand therefore is not received by the Company in writing within such applicable contract law statute of limitations.

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John Leach, CEO  
#2 Greenwood Square, Suite 275  
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**TELECOMMUNICATIONS SERVICES TARIFF****2.11 Collection Costs**

In the event Company is required to initiate legal proceedings to collect any amounts due to Company, or to enforce any judgment obtained against a Customer, or for the enforcement of any other provision of this tariff or applicable law, Customer shall, in addition to all amounts due, be liable to Company for all reasonable costs incurred by Company in such proceedings and enforcement actions, including reasonable attorneys' fees, collection agency fees or payments, and court costs. In any such proceeding, the amount of collection costs, including attorneys' fees, due to the Company, will be determined by a court of competent jurisdiction or by the Commission.

**2.12 Taxes**

All federal, state and local taxes, assessments, surcharges, or fees, including sales taxes, use taxes, gross receipts taxes, and municipal utilities taxes, are billed as separate line items and are not included in the rates quoted herein.

**2.13 Late Charge**

A late fee of 1.5% per month or the amount otherwise authorized by law, whichever is lower, will be charged on any past due balances.

**2.14 Returned Check Charge**

A fee of \$20.00 will be charged whenever a check or draft presented for payment for service is not accepted by the institution on which it is written.

**2.15 Reconnection Charge**

A reconnection fee of \$25.00 per occurrence will be charged when service is reestablished for Customers which have been disconnected due to non-payment. Payment of the reconnection fee and any other outstanding amounts will be due in full prior to reconnection of service.

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EFFECTIVE:

John Leach, CEO  
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TELECOMMUNICATIONS SERVICES TARIFFSECTION 3 - DESCRIPTION OF SERVICE3.1 Computation of Charges

3.1.1 The total charge for each completed call may be a variable measured charge dependent on the duration, distance and time of day of the call. The total charge for each completed call may also be dependent only on the duration of the call, i.e. a statewide flat rate per minute charge. The variable measured charge is specified as a rate per minute which is applied to each minute. All calls are measured in increments as set forth in the Rates Section of this tariff. Fractions of a billing increment are rounded up to a full billing increment on a per call basis. Fractions of a cent per minute are rounded up to a full cent on a per call basis.

3.1.2 Where mileage bands appear in a rate table, rates for all calls are based upon the airline distance between the originating and terminating points of the call, as determined by the vertical and horizontal coordinates associated with the exchange (the area code and three digit central office code) associated with the originating and terminating telephone numbers. If the Customer obtains access to the Company's network by a dedicated access circuit, that circuit will be assigned an exchange for rating purposes based upon the Customer's main telephone number at the location where the dedicated access circuit terminates. The vertical and horizontal (V & H) coordinates for each exchange and the airline distance between them will be determined according to industry standards.

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- 3.1.3 Timing begins when the called station is answered and two way communication is possible, as determined by standard industry methods generally in use for ascertaining answer, including hardware answer supervision in which the local telephone company sends a signal to the switch or the software utilizing audio tone detection. Recognition of answer supervision is the responsibility of the Underlying Carrier. Timing for each call ends when either party hangs up. The Company will not bill for uncompleted calls.

**3.2 Customer Complaints and/or Billing Disputes**

Customer inquiries or complaints regarding service or accounting may be made in writing or by telephone to the Company at:

#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020  
(800) 872-3369

An objection to billed charges should be reported to the Company within 180 days from receipt of an invoice. Adjustments to Customers' bills shall be made to the extent that records are available and/or circumstances exist which reasonably indicate that such charges are not in accordance with approved rates or that an adjustment may otherwise be appropriate.

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**TELECOMMUNICATIONS SERVICES TARIFF**

The Company will respond within seventy two (72) hours of receipt of an inquiry. If the Customer is dissatisfied with the Company's response to a complaint or inquiry, the Customer may file a complaint with the Commission for resolution of the conflict. The South Dakota Public Utilities Commission can be reached at:

500 East Capitol  
Pierre, SD 57501-5070  
(605) 773-3201  
(800) 332-1782  
TTY through Relay Service South Dakota-  
(800) 877-1113

If a Customer accumulates more than One Dollar of undisputed delinquent Company 800 Service charges, the Company Resp. Org. reserves the right not to honor that Customer's request for a Resp. Org. change until such undisputed charges are paid in full.

**3.3 Level of Service**

A Customer can expect end to end network availability of not less than 99% at all times for all services.

**3.4 Billing Entity Conditions**

When billing functions on behalf of the Company or its intermediary are performed by local exchange telephone companies or others, the payment of charge conditions and regulations of such companies and any regulations imposed upon these companies by regulatory bodies having jurisdiction apply. The Company's name and toll-free telephone number will appear on the Customer's bill.

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John Leach, CEO  
#2 Greenwood Square, Suite 275  
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TELECOMMUNICATIONS SERVICES TARIFF**3.5 Service Offerings**

## 3.5.1 1+ Dialing

This service permits Customers to originate calls via switched or dedicated access lines, and to terminate intrastate calls. The customer dials "1+" followed by "ten digits" or dials "101XXXX" followed by "1+ ten digits".

## 3.5.2 Travel Cards

The Customer utilizes an 11 digit "toll-free" access number established by the Company to access a terminal. Upon receiving a voice prompt, the Customer uses push button dialing to enter an identification code assigned by the Company, and the ten digit number of the called party.

## 3.5.3 Toll-Free Service

This service is inbound calling only where an 800, 888 or other toll-free prefix number rings into a Customer's premise routed to a specific telephone number or terminated over a dedicated facility.

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John Leach, CEO  
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3.5.4 Reserved for Future Use.

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John Leach, CEO  
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CAPSULE COMMUNICATIONS, INC.

ORIGINAL SHEET 26

SOUTH DAKOTA PUC TARIFF NO. 1

TELECOMMUNICATIONS SERVICES TARIFF

Reserved for Future Use.

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3.5.5 Directory Assistance.

Access to long distance directory assistance is obtained by dialing 1 + 555-1212 for listings within the originating area code and 1 + (area code) + 555-1212 for other listings. When more than one number is requested in a single call, a charge will apply for each number requested. A charge will be applicable for each number requested, whether or not the number is listed or published.

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John Leach, CEO  
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TELECOMMUNICATIONS SERVICES TARIFF

## 3.5.6 Specialized Pricing Arrangements.

Customized service packages and competitive pricing packages at negotiated rates may be furnished on a case-by-case basis in response to requests by Customers to the Company for proposals or for competitive bids. Service offered under this tariff provision will be filed with the Commission. Specialized rates or charges will be made available to similarly situated Customers on a non-discriminatory basis. The Company will notify the Commission of such arrangements as required by Commission rules and regulations.

## 3.5.7 Emergency Call Handling Procedures

Emergency "911" calls are not routed to company, but are completed through the local network at no charge.

## 3.5.8 Promotional Offerings

The Company may, from time to time, make promotional offerings to enhance the marketing of its services. These offerings may be limited to certain dates, times and locations. The Company will notify the Commission of such offerings as required by Commission rules and regulations.

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EFFECTIVE:  
John Leach, CEO  
#2 Greenwood Square, Suite 275  
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TELECOMMUNICATIONS SERVICES TARIFF

SECTION 4 - RATES

4.1 1+ Dialing

\$0.15 per minute

A \$4.95 per month service charge applies.  
Billed in one minute increments.

4.2 Travel Cards

\$.199 per minute

A \$.25 per call service charge applies.  
Billed in one minute increments.

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John Leach, CEO  
#2 Greenwood Square, Suite 275  
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4.3 Toll Free

\$0.15 per minute

A \$10 per month per number service charge applies.  
Billed in one minute increments.

4.4 Reserved for Future Use.

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EFFECTIVE:

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John Leach, CEO  
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Bensalem, Pennsylvania 19020

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4.5 Directory Assistance

\$.95

4.6 Returned Check Charge

\$20.00

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EFFECTIVE:  
John Leach, CEO  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020

TELECOMMUNICATIONS SERVICES TARIFF**4.7 Rate Periods**

	Monday - Friday	Sat.	Sun.
8 a.m. to 5 p.m.*	Daytime Rate Period		
5 p.m. to 11 p.m.*	Evening Rate Period		Evening Rate Period
11 p.m. to 8 a.m.*	Night/Weekend Rate Period		

\* To, but not including

When a message spans more than one rate period, total charges for the minutes in each rate period are calculated and the results for each rate period are totaled to obtain the total message charge. If the calculation results in a fractional charge, the amount will be rounded up to the higher cent.

**4.8 Payphone Dial Around Surcharge**

A dial around surcharge of \$.50 per call will be added to any completed INTRASTATE toll access code and subscriber toll-free 800/888 type calls placed from a public or semi-public payphone.

**4.9 Universal Service Fund Assessment & Presubscribed Interexchange Carrier Charge**

The Customer will be assessed a monthly Universal Service Fund Contribution charge on all telecommunications services, which in no event shall be less than the prevailing contribution percentage rate charged the Company on intrastate traffic by any state agency or its administrator. A Presubscribed Interexchange Carrier Charge ("PICC") applies on a monthly basis to all Customer monthly bills at the prevailing rate.

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ISSUED BY:

EFFECTIVE:

John Leach, CEO  
#2 Greenwood Square, Suite 275  
Bensalem, Pennsylvania 19020

TELECOM COMPLIANCE SERVICES, INC. 01-96  
1720 Windward Concourse  
SUITE 250  
ALPHARETTA, GA 30005  
(678) 775-2244

BANK OF AMERICA  
NATIONAL ASSOCIATION  
ACWORTH, GA 30101  
64-5/610

2780

6/18/2003

PAY TO THE ORDER OF South Dakota Public Utilities Commission

\$ \*\*250.00

Two Hundred Fifty and 00/100\*\*\*\*\*

DOLLARS

South Dakota Public Utilities Commission

MEMO Capsule Communications - filing fee

⑈002780⑈ ⑆061000052⑆ 003250468602⑈

South Dakota Public Utilities Commission

6/18/2003

2780

Capsule Communications - filing fee

250.00

TC03-098

Operating Checking

Capsule Communications - filing fee

250.00

South Dakota Public Utilities Commission

6/18/2003

2780

Capsule Communications - filing fee

250.00

PAYMENT  
RECORD

Operating Checking

Capsule Communications - filing fee

250.00

**South Dakota Public Utilities Commission**  
**WEEKLY FILINGS**  
For the Period of June 19, 2003 through June 25, 2003

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

**CONSUMER COMPLAINTS**

**CT03-011** In the Matter of the Complaint filed by Jon Briggs on behalf of Pioneer of Pierre, Pierre, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.

Complainant's representative states that long distance and 800-phone service was discontinued without notice, resulting in a loss of sales business for that week. No resolution was indicated at this time.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-012** In the Matter of the Complaint filed by Jon Briggs on behalf of Hand County Implement, Miller, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.

Complainant's representative states that long distance and 800-phone service was discontinued without notice, resulting in a loss of sales business for that week. No resolution was indicated at this time.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-013** In the Matter of the Complaint filed by Jon Briggs on behalf of Pioneer Garage, Inc., Highmore, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.

Complainant's representative states that long distance and 800-phone service was discontinued without notice, resulting in a loss of sales business for that week. Complainant seeks to have all assets of the respondent seized and a much higher bond requirement for companies doing this type of business in the future.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-014** In the Matter of the Complaint filed by Janet Davis on behalf of Legend Seeds, Inc., DeSmet, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.

Complainant's representative states that after purchasing two four year pre-paid long distance plans at a

total price of \$11,700.28, service was terminated after thirty days of use due to a financial crisis on the part of the respondent. Complainant seeks to have the contract fulfilled or to be refunded the full purchase price of the contracts.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-015 In the Matter of the Complaint filed by Denny and Doris Lauing, Blunt, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainants state that they purchased a seven year pre-paid long distance plan on 8/1/99 and that service was terminated on 6/5/03, three years before the plan was to expire. Complainants seek to be reimbursed for the amount of service not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-016 In the Matter of the Complaint filed by Marlene C. Frantz on behalf of Winner Livestock Auction Co., Winner, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that on 10/23/00 they purchased a six-year pre-paid long distance service plan. On 6/6/03 service was terminated without notice. Complainant seeks to be reimbursed for three years of pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-017 In the Matter of the Complaint filed by Verna Koskan on behalf of Koskan's, Wood, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that on 11/10/00 they purchased a four year pre-paid long distance service plan on the four lines in their homes and business plus various calling card plans. In December of 2002, an overpayment was made to the respondent and has not been refunded. Complainant seeks to be reimbursed for pre-paid service not provided and the overpayment that was made in December of 2002.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-018 In the Matter of the Complaint filed by Karen Jones on behalf of Jones Trucking, Ipswich, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that the respondent caused them to lose their 800 service for two weeks before it could be changed to another carrier and did not honor pre-paid long distance service contracts. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-019 In the Matter of the Complaint filed by Lyle Perman, Lowry, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that his pre-paid long distance service plan was terminated one thousand one hundred and thirty-seven days into his two thousand one hundred and ninety-day contract. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-020 In the Matter of the Complaint filed by Byron and Penny Woodruff, Wessington, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainants state that the six-year pre-paid long distance service plan they purchased on 12/31/02 was terminated on 6/5/03. Complainants seek to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-021 In the Matter of the Complaint filed by Glen Behnke, Britton, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that his pre-paid long distance service plan was terminated without notice three and one half years prior to the expiration date. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-022 In the Matter of the Complaint filed by Paul D. Nelson, Gettysburg, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that his pre-paid long distance service plan was terminated with eleven months of service remaining on the plan. Complainant seeks to be reimbursed for pre-paid service that was not provided and/or to be included in any bond disbursements.



Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-023 In the Matter of the Complaint filed by Tom Logue on behalf of Tyndall Motors, Tyndall, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a six year pre-paid long distance service plan was purchased on 4/26/02 and that on 6/5/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-024 In the Matter of the Complaint filed by Lars Lyngaas on behalf of Rapid Precision Manufacturing, Inc., Britton, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a six-year pre-paid long distance service plan was purchased on 9/17/02 and that on 5/27/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-025 In the Matter of the Complaint filed by James Gesswein on behalf of Gesswein Motors, Inc., Milbank, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 5/22/02 and that on 6/3/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-026 In the Matter of the Complaint filed by Dennis VanDerWerff, Platte, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that a four-year pre-paid long distance service plan was purchased on 9/20/02 and that on 6/4/03 service was terminated without notice. During the time the service was in place \$878.59 was paid to another long distance company for which the respondent agreed to reimbursement the complainant. In addition to the \$878.59, the complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-027 In the Matter of the Complaint filed by William Schuneman on behalf of Grant County Implement Co., Milbank, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 8/9/02 and that on 6/4/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-028 In the Matter of the Complaint filed by John Scott on behalf of Scott Supply Co., Mitchell, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 1/15/03 and that on 6/9/03 service was terminated without notice. Complainant seeks to be reimbursed for the full cost of the contract.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-029 In the Matter of the Complaint filed by Garry Peterka on behalf of First State Bank Miller, Miller, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that pre-paid long distance service contracts were purchased for the Miller and Highmore branches and that both plans have been terminated without notice prior to the expiration date of the contracts. Complainant seeks to have the losses covered by the bond carried by the respondent.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-030 In the Matter of the Complaint filed by Von Denning on behalf of V & S Trucking, Corsica, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 11/19/02 and that on 6/3/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided or to have the respondent fulfill the contract.

Staff Analyst: Jim Mehlhaff

Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-031 In the Matter of the Complaint filed by Robert Angerhofer on behalf of South Dakota Automobile Club, Inc. dba AAA Travel Agency and AAA South Dakota, Sioux Falls, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four year pre-paid long distance service plan was purchased on 7/12/02 for each of the 15 offices in the state of SD. On 6/3/03 service was terminated without notice at one office and that over the next few days all 15 locations had lost service. Complainant seeks to be reimbursed by the respondent, bond or letter of credit for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-032 In the Matter of the Complaint filed by David Gullickson on behalf of Farmers Implement and Irrigation, Inc., Brookings, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 8/15/02 and that during the week of 6/9/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided either by S&S or via the bond.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/19/03  
Intervention deadline: N/A

**CT03-033 In the Matter of the Complaint filed by Mike Schulte on behalf of Schulte's Flandreau Motors, Inc., Flandreau, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased in August of 2002 and that on 6/3/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-034 In the Matter of the Complaint filed by Renae Tisdall on behalf of Mobridge Regional Hospital, Mobridge, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 1/27/03 and that on 6/2/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-035 In the Matter of the Complaint filed by Bryan Krauter on behalf of Rushmore Electric Power Coop, Rapid City, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a three-year pre-paid long distance service plan was purchased on 4/10/02 and that on 6/3/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided along with the costs associated with re-establishing service.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-036 In the Matter of the Complaint filed by Karen Marcus on behalf of Olsen Implement, Inc., Huron, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 5/14/02 and that in early June of 2003 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided or to have the respondent fulfill the contract.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-037 In the Matter of the Complaint filed by Joe Wurtz on behalf of New Port Colony, Claremont, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that 2 seven year pre-paid long distance service plans were purchased, one on 9/20/99 and a second on 11/21/00 and that on 6/9/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-038 In the Matter of the Complaint filed by Kenneth Wiese, Twin Brooks, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that a six-year pre-paid long distance service plan was purchased on 4/30/01. Service was terminated without notice after only two years. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-039 In the Matter of the Complaint filed by Terry Jacobson on behalf of Eugene Beckman & Sons, Brookings, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that on 2/2/03 a contract was signed for pre-paid long distance service with the respondent. During the months of April and May, the business locations were connected to the pre-paid service. On 6/3/03 service began to fail and all service had been terminated at both location by 6/5/03. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-040 In the Matter of the Complaint filed by David Moodie on behalf of Moodie Implement, Inc., Pierre, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that on 11/6/02 a number of four year pre-paid long distance service plans were purchased for two business locations in SD, two business locations in MT, 2 residential locations in SD and one residential location in MT, and that on 6/3/03 service was terminated without notice. Complainant seeks to be refunded the full amount paid for the contracted service.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-041 In the Matter of the Complaint filed by Rod Skorpik on behalf of Skorpik's, Inc., Tyndall, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 11/2/02 and that on 6/6/03 service was terminated without notice. Complainant seeks a refund of the contract purchase price or to have the respondent fulfill the contract.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-042 In the Matter of the Complaint filed by A. E. Buresh on behalf of Great Plains International, Inc., Sioux Falls, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 10/23/02, service was established on 2/5/03 and that on 6/2/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided either by the

respondent or the bonding company.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-043 In the Matter of the Complaint filed by Jae J. Koletzky on behalf of Koletzky Implement, Inc., Yankton, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 10/11/02, and that on 6/3/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-044 In the Matter of the Complaint filed by Leo Beranek on behalf of Miller Livestock Auction, Inc., Miller, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a seven-year pre-paid long distance service plan was purchased on 7/22/99, and that on 6/5/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-045 In the Matter of the Complaint filed by Troy and Tember Beckett, Miller, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainants state that the respondent disconnected phone service after having accepted pre-payment on a ten-year service plan. The plan has not expired and the complainants seek to have the Commission do what is possible to improve their circumstances.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-046 In the Matter of the Complaint filed by Allen and Jean Croyle, Black Hawk, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainants state that a six-year pre-paid long distance service plan was purchased on 6/28/02, and that on 6/3/03 service was terminated without notice. Complainants seek to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-047 In the Matter of the Complaint filed by Paula J. Barber on behalf of Barber Farm Service, Inc., Onida, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a five-year pre-paid long distance service plan was purchased on 5/22/02, and that on 6/5/03 service was terminated without notice. Complainant seeks to have the Commission require the Bond Company to reimburse it for unused pre-paid service and to pay restitution for lost business and time due to the failure on the part of the respondent.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-048 In the Matter of the Complaint filed by Lyle Magorien on behalf of Chase Auto Connection, Pierre, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a six-year pre-paid long distance service plan was purchased on 5/17/02 to serve three locations, and that in June of 2003 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention deadline: N/A

**CT03-049 In the Matter of the Complaint filed by DeWayne Weiszhaar on behalf of Haberer's Implement, Inc., Bowdle, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a six-year pre-paid long distance service plan was purchased on 4/1/01 and that in June of 2003 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-050 In the Matter of the Complaint filed by Curtis E. Sylte, Sisseton, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that a seven-year pre-paid long distance service plan was purchased on 11/30/99 and that in June of 2003 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided or to have the contract honored by the respondent.

Staff Analyst: Jim Mehlhaff

Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-051 In the Matter of the Complaint filed by Judy Nichols, Mobridge, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that she purchased a ten-year pre-paid long distance service plan and that service was terminated after four years and six months service. Complainant seeks to be reimbursed for pre-paid service that was not provided or to have the contract honored by the respondent.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-052 In the Matter of the Complaint filed by Rello Meyers on behalf of Eastern Plains Urology, Aberdeen, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four year pre-paid long distance service plan was purchased on 5/15/02, service was established on 6/14/02 and that on 6/14/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided and to be included in any disbursements of bond monies.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-053 In the Matter of the Complaint filed by Dave Hahler on behalf of Dave Hahler Automotive, Inc., Webster, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant entered into a contract with the respondent for pre-paid phone service on 8/29/02. Respondent terminated service to customers in June of 2003. Complainant seeks to have respondent's license revoked, reimbursement of money paid to the respondent and criminal prosecution of respondent.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-054 In the Matter of the Complaint filed by Larry L. Coyle on behalf of Highmore Cattle Auction, LLC, Highmore, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 8/20/02, and that on 6/2/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided or to be provided service for the balance of the contract at no additional cost.



Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-055 In the Matter of the Complaint filed by Scott Vance on behalf of Faith Livestock Commission Co., Faith, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 12/31/02, and that on 6/3/03 service was terminated without notice. Complainant seeks to have the PUC use the bond money to make whole all that suffered losses as a result of the failure on the part of the respondent. If the bond is not adequate, complainant seeks to have the PUC take action against the personal assets of the respondent owners and staff and to seek criminal action against the same.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-056 In the Matter of the Complaint filed by Ron Wagner on behalf of Country Ford, Inc., Tyndall, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a six-year pre-paid long distance service plan was purchased on 11/13/02, and that on 6/3/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-057 In the Matter of the Complaint filed by Roger Eich on behalf of Prostrollo Motor Company, Madison, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a six-year pre-paid long distance service plan was purchased on 5/28/03, and that on 6/3/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-058 In the Matter of the Complaint filed by Ronald R. Graves, Cresbard, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that a seven-year pre-paid long distance service plan was purchased and financed through a lease company, and that on 6/3/03 service was terminated without notice. Even though the complainant is no longer receiving service the responsibility remains for the lease payment. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-059 In the Matter of the Complaint filed by Walter F. Keller on behalf of Jobbers Moving & Storage, Aberdeen, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 1/13/03, due to problems in transferring the service, the respondent provided service for only two months before service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-060 In the Matter of the Complaint filed by Shawn Chase, Redfield, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that a six-year pre-paid long distance service plan was purchased on 5/21/02, and that on 6/5/03 service was terminated without notice. No resolution was requested at this time.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-061 In the Matter of the Complaint filed by Melvin, Phoebe, Tim and Sonja Huber, Hoven, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainants have a ten-year pre-paid long distance phone service contract with the respondent and service has been terminated without notice. No resolution was requested at this time.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/23/03  
Intervention deadline: N/A

**CT03-062 In the Matter of the Complaint filed by Calvin and Marcella Huber, Hoven, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainants have a ten-year pre-paid long distance phone service contract with the respondent that should be in effect through 2/4/07. Service has been terminated without notice. Complainants seek to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/24/03

Intervention deadline: N/A

**CT03-063 In the Matter of the Complaint filed by Greg Wolkow on behalf of O'Keefe Implement, Inc., DeSmet, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four-year pre-paid long distance service plan was purchased on 12/20/02 for two locations. Service was established on 1/7/03 and on 6/3/03 service was terminated without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided or to have the contract honored.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/24/03  
Intervention deadline: N/A

**CT03-064 In the Matter of the Complaint filed by Wayne Heien, Onida, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant purchased a six-year pre-paid long distance service contract and was only able to get six months of use out of it before service was terminated without notice. Complainant would like to have his service restored for the balance of the contract or to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/24/03  
Intervention deadline: N/A

**CT03-065 In the Matter of the Complaint filed by Charles Simon, Hoven, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant purchased a ten-year pre-paid long distance service plan and was only able to get six months of use out of it before service was terminated without notice. Complainant would like to have his service restored for the balance of the contract or to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/24/03  
Intervention deadline: N/A

**CT03-066 In the Matter of the Complaint filed by Jake Volk, Ipswich, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant had a contract in place that was to provide pre-paid long distance service through 11/5/08. Service was terminated without notice in June of 2003. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/24/03  
Intervention deadline: N/A

**CT03-067** In the Matter of the Complaint filed by Brandon Peterson on behalf of SDAPV Dakota Premium Hay, LLC, Meckling, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.

Complainant's representative states that a six-year pre-paid long distance service plan was purchased on 4/30/03, the check cleared the bank on 5/7/03 and service was never established. Complainant seeks to be reimbursed for pre-paid service that was not provided and a full refund of the purchase price.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/24/03  
Intervention deadline: N/A

**CT03-068** In the Matter of the Complaint filed by Maurice Hoffman, Bowdle, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.

Complainant purchased a ten-year pre-paid long distance service plan on 4/5/99, service was terminated without notice on 6/5/03. Complainant would like to have service restored for the balance of the contract or to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/24/03  
Intervention deadline: N/A

**CT03-069** In the Matter of the Complaint filed by Craig Engel, Piedmont, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.

Complainant purchased a six-year pre-paid long distance service plan on 2/21/00, service was terminated without notice in early June 2003. Complainant would like to have his service restored for the balance of the contract or to be reimbursed fifty percent of the original purchase price.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/24/03  
Intervention deadline: N/A

**CT03-070** In the Matter of the Complaint filed by Dennis and Jeanne Bieber, Bowdle, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.

Complainants lost service on their ten year pre-paid long distance service plan with six years service remaining. Complainants would like to have service restored for the balance of the contract or to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/24/03  
Intervention deadline: N/A

**CT03-071** In the Matter of the Complaint filed by Keith Hainy on behalf of North Central Farmers Elevator, Ipswich, South Dakota, against S&S Communications/Alterna-Cell

**Regarding Loss of Long Distance Services.**

Complainant purchased a four-year pre-paid long distance service plan that was to go into effect on 11/10/02, service was terminated without notice in early June 2003. Complainant seeks to participate in the distribution of the bond and/or any other monies that the Commission should take receivership of in relation to the failure of the respondent.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/24/03  
Intervention deadline: N/A

**CT03-072 In the Matter of the Complaint filed by Randy Sondreal on behalf of Huron Manufacturing, Huron, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant purchased a three-year pre-paid long distance service plan on 10/1/02, service was terminated without notice on 6/2/03. Complainant seeks a refund of the full purchase price of the contract.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/25/03  
Intervention deadline: N/A

**CT03-073 In the Matter of the Complaint filed by Doug Bierschbach on behalf of Enercept, Inc., Watertown, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant purchased a four year pre-paid long distance service plan on 9/10/02, service was established on 11/1/02 and service terminated without notice on 6/2/03. Complainant seeks to have the PUC foreclose on the bond and letter of credit and reimburse it for the pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/25/03  
Intervention deadline: N/A

**CT03-074 In the Matter of the Complaint filed by Brian Severeid on behalf of Ellefson Implement, Inc., Mitchell, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that a four year pre-paid long distance service plan was purchased on 7/18/02, service was provided for ten months and terminated without notice in early June of 2003. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/25/03  
Intervention deadline: N/A

**CT03-075 In the Matter of the Complaint filed by Lynne A. and Raymond J. Duling, Gregory, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long**

## **Distance Services.**

Complainants state that a six year pre-paid long distance service plan was purchased to serve five business locations on 10/15/02. Service was terminated without notice on 6/2/03. Complainant seeks to be reimbursed the full purchase price of the contract.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/25/03  
Intervention deadline: N/A

**CT03-076 In the Matter of the Complaint filed by Wayne Bartscher on behalf of Farmers Union Service Association, Huron, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that they purchased four-year pre-paid long distance service contracts on three different occasions starting with a purchase on 11/1/01 and ending with a purchase on 4/9/02. Service was terminated on all three agreements on 6/2/03 without notice. Complainant seeks to be reimbursed for pre-paid service that was not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/25/03  
Intervention deadline: N/A

**CT03-077 In the Matter of the Complaint filed by Dan Noteboom on behalf of Corsica Implement, Inc., Corsica, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a four year pre-paid long distance service plan was purchased. Service was terminated without notice after thirteen months of service. Complainant seeks to be reimbursed the full purchase price of the contract, plus damages caused by the unexpected loss of service.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/25/03  
Intervention deadline: N/A

**CT03-078 In the Matter of the Complaint filed by Dan Noteboom on behalf of Platte Parts Store, Platte, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant's representative states that a five year pre-paid long distance service plan was purchased. Service was terminated without notice after five months of service. Complainant seeks to be reimbursed the full purchase price of the contract, plus damages caused by the unexpected loss of service.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/25/03  
Intervention deadline: N/A

**CT03-079 In the Matter of the Complaint filed by Jaime and Jason Anderberg, Ree Heights, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long**

## Distance Services.

Complainants state that a six year pre-paid long distance service plan was purchased on 5/23/00. Service was terminated without notice in early June 2003. Complainant seeks to be reimbursed for the pre-paid service not provided or at least the amount owed on the lease contract.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/25/03  
Intervention deadline: N/A

**CT03-080 In the Matter of the Complaint filed by Curt Bossert, Aberdeen, South Dakota, against S&S Communications/Alterna-Cell Regarding Loss of Long Distance Services.**

Complainant states that a ten year pre-paid long distance service plan was purchased on 12/31/96. Service was terminated without notice in early June 2003, leaving three and one half years of the contract unfulfilled. Complainant seeks to have service restored for the remainder of the contract or to be reimbursed for the pre-paid service not provided.

Staff Analyst: Jim Mehlhaff  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/25/03  
Intervention deadline: N/A

## TELECOMMUNICATIONS

**TC03-097 In the Matter of the Petition of Midcontinent Communications for a Waiver of ARSD 20:10:33:30.**

On June 19, 2003, Midcontinent Communications filed a Petition For Waiver pursuant to ARSD 20:10:33:30 of the Service Standard contained in ARSD 20:10:33:19. Midcontinent Communications states that the rule may be appropriate for a copper based system, but the cable based system utilized by Midcontinent Communications requires a different plan designed to meet the needs of a cable system. Midcontinent Communications asks the Commission to grant a Waiver pursuant to rule which acknowledges the Midcontinent Communications' power supply response team as adequate in place of the requirements in ARSD 20:10:33:19.

Staff Analyst: Harlan Best  
Staff Attorney: Karen Cremer  
Date Docketed: 06/19/03  
Intervention Deadline: 07/11/03

**TC03-098 In the Matter of the Application of Capsule Communications, Inc. for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota.**

Capsule Communications, Inc. has filed an application for a Certificate of Authority to provide interexchange telecommunications services in South Dakota. The applicant intends to provide resold interexchange services, including 1+ and 101XXXX outbound dialing, 800/888 toll-free inbound dialing, directory assistance, data services, and travel card service throughout South Dakota.

Staff Analyst: Bonnie Bjork  
Staff Attorney: Kelly Frazier  
Date Docketed: 06/20/03  
Intervention Deadline: 07/11/03

**TC03-099 In the Matter of the Filing by Z-Tel Communications, Inc. for Approval of Revisions to its Intrastate Switched Access Tariff.**

On June 20, 2003, Z-Tel Communications, Inc. filed a petition to revise its South Dakota Tariff No. 3, which is its switched access tariff. Z-Tel was granted an exemption from developing company-specific cost-based switched access rates and approval of its tariff concurring in the rates of LECA Tariff No. 1 in SDPUC Docket TC01-053. Z-Tel herein seeks waivers of ARSD 20:10:27:07 and 20:10:27:12 and requests approval of a revision of its current access rates to concur with the current access rates of Qwest.

Staff Analyst: Michele Farris  
Staff Attorney: Karen Cremer  
Date Docketed: 06/20/03  
Intervention Deadline: 07/11/03

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**Lance J.M. Steinhart, P.C.**

Attorney At Law  
1720 Windward Concourse  
Suite 250  
Alpharetta, Georgia 30005

Also Admitted in New York  
and Maryland

Telephone: (770) 232-9200  
Facsimile: (770) 232-9208  
Email: lsteinhart@telecomcounsel.com

August 14, 2003

**VIA OVERNIGHT DELIVERY**

Mr. William Bullard  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Ave-Pierre, SD 57501-5070  
(605) 773-3201

**RECEIVED**  
AUG 15 2003  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Re: Capsule Communications, Inc.; TC03-098

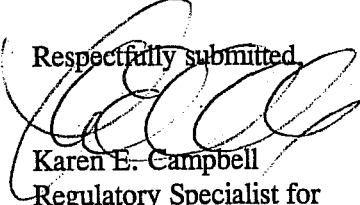
Dear Mr. Bullard:

Pursuant to staff request of July 3, 2003, please find enclosed one original and ten (10) copies of Capsule Communications, Inc.'s responses relevant to the Application a Certificate of Authority to Provide Interexchange Telecommunications Services in the State of South Dakota.

**APPLICANT HAS ALSO ENCLOSED ONE COPY OF FINANCIAL STATEMENTS IN A SEPARATE ENVELOPE MARKED "CONFIDENTIAL AND PROPRIETARY" AND RESPECTFULLY REQUESTS CONFIDENTIAL TREATMENT OF THE ENCLOSED FINANCIAL INFORMATION. APPLICANT EXPECTS THAT THIS INFORMATION WILL BE RESTRICTED TO COUNSEL, AGENTS AND EMPLOYEES WHO ARE SPECIFICALLY ASSIGNED TO THIS APPLICATION BY THE COMMISSION.**

I have also enclosed an extra copy of this cover letter to be date stamped and returned to me in the enclosed self-addressed prepaid envelope. If you have any questions, or if I may provide you with any additional information, please do not hesitate to contact me.

Respectfully submitted,

  
Karen E. Campbell  
Regulatory Specialist for  
Lance J.M. Steinhart  
Attorney for Capsule Communications, Inc.

Enclosures

cc: Kathie Dilks

1. The financial statements submitted as exhibits C are for the applicant's parent company, Covista. The Commission requires financial statements of the applicant, Capsule Communications, Inc. Please provide a written request for a waiver of current financial statements as provided for in ARSD [20:10:24:02(8)] and ARSD [20:10:24:02(15)].

**Please see confidential Consolidated Financial Statements as of December 31, 2001 and 2000 and for the Years Ending December 31, 2001, 2000 and 1999 and Independent Auditors' Report; and Consolidated financial information for the year ending December 31, 2002 at Exhibit A.**

2. In the application, the applicant indicated that it had included a copy of the Applicant's Articles of Incorporation. The Articles of Incorporation were provided for Covista, Inc. with an incorporation date of June 1, 2000. The application states that the applicant was organized in the State of Delaware on October 21, 1999. Was Capsule Communications, Inc. incorporated in Delaware on October 21, 1999? If so, please provide a copy of Capsule Communications, Inc. Articles of Incorporation.

**Capsule Communications, Inc. was incorporated on October 21, 1999 in the state of Delaware. Please see articles of incorporation at Exhibit B.**

3. The applicant provided in its application the regulatory status as required by ARSD [20:10:24:02(14)]. In the application, the applicant stated that "the applicant has never been denied registration or certification in any state." Capsule Communications was issued an order to Show Cause for Failure to submit an Annual Report and Pay the Gross Receipts Tax by the SD PUC on 11/15/2002. The company failed to respond and the Certificate of Authority was revoked on December 23, 2002. Please explain why Capsule Communications has failed to provide this information in their application.

Additionally, the SD PUC received notification on September 21, 2001 that control of Capsule was being transferred to Covista. According to your application, this transaction was completed on February 8, 2002. Does Capsule plan to file its annual reports for 2001 and 2002? Will Capsule remit to the SD PUC its gross receipt tax and applicable penalties, as provided for in SDCL 49-1A-1, for 2001 and 2002 prior to consideration of Capsule application for a Certificate of Authority?

**Capsule Communications, Inc. has not been denied registration or certification in any state. However, at the time of filing, counsel was unaware of the December 23, 2002 revocation order. Since the issuance of staff's letter, Capsule is in the process of filing Annual Reports, as well as paying the Gross Receipts Tax, for the years 2001 and 2002.**

RECEIVED

AUG 15 2003

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

**List of Exhibits**

**Exhibit A – Confidential Financials**

**Exhibit B – Articles of Incorporation for Capsule Communications, Inc.**

**Exhibit A – Confidential Financials**

(Please see separate envelope marked "Confidential and Proprietary")

**Exhibit B – Articles of Incorporation for Capsule Communications, Inc.**

State of Delaware

PAGE 1

Office of the Secretary of State

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "CAPSULE COMMUNICATIONS, INC.", FILED IN THIS OFFICE ON THE TWENTY-FIRST DAY OF OCTOBER, A.D. 1999, AT 2:35 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.



*Edward J. Freel*

Edward J. Freel, Secretary of State

0088844

AUTHENTICATION:

10-22-99

DATE:

31174518 81001

991446268

**CERTIFICATE OF INCORPORATION  
OF  
CAPSULE COMMUNICATIONS, INC.**

**ARTICLE I  
NAME**

The name of this corporation is Capsule Communications, Inc. (the "Corporation").

**ARTICLE II  
REGISTERED OFFICE**

The registered office of the Corporation in the State of Delaware is located at 1201 Market Street, Suite 1600, in the City of Wilmington, County of New Castle 19801, and its registered agent at such address is PHS Corporate Services, Inc.

**ARTICLE III  
PURPOSE**

The purpose or purposes of the Corporation shall be to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of Delaware.

**ARTICLE IV  
AUTHORIZED STOCK DESIGNATIONS**

The total number of shares of capital stock which the Corporation shall have authority to issue is one hundred and two million (102,000,000) shares, of which one hundred million (100,000,000) shares shall be common stock, par value \$0.01 per share ("Common Stock"), and two million (2,000,000) shares shall be preferred stock, par value \$0.01 per share ("Preferred Stock"). The Board of Directors of the Corporation (the "Board of Directors") is hereby authorized, subject to limitations prescribed by law, to provide for the issuance from time to time of the shares of Preferred Stock in one or more series, and by filing a certificate pursuant to the applicable law of the State of Delaware, to establish from time to time the number of shares to be included in a series, and to fix the designations, powers, preferences and rights, and the qualifications, limitations or restrictions thereof, of each such series of Preferred Stock, including the dividend rights, dividend rate, conversion rights, voting rights, rights and terms of redemption (including sinking fund provisions), redemption price or prices, and liquidation preferences of any wholly unissued series of Preferred Stock.

**ARTICLE V  
DURATION**

The Corporation is to have perpetual existence.

**ARTICLE VI  
BOARD OF DIRECTORS**

The number of directors which shall constitute the whole Board of Directors shall be fixed by, or in the manner provided in, the bylaws. The election of directors need not be by written ballot unless a stockholder demands election by written ballot at a meeting of stockholders and before voting begins or unless the bylaws of the Corporation so provide.

REGAL:076567 (06/20/11:WFD)

**ARTICLE VII  
SPECIAL MEETINGS**

A special meeting of stockholders may be called at any time by a majority of the Board of Directors or President of the Corporation. At any time when a special meeting of stockholders has been called pursuant hereto and upon receipt of request from the persons calling the meeting, it shall be the duty of the Secretary to fix the time and place of the meeting, which shall be held not more than sixty (60) days after receipt of the request. If the Secretary neglects or refuses to fix the time or place of the meeting, the person(s) calling the meeting may do so.

**ARTICLE VIII  
VESTING OF POWER**

All of the powers of the Corporation, insofar as the same may now or hereafter be lawfully vested by this Certificate of Incorporation in the Board of Directors, are hereby conferred upon the Board of Directors of the Corporation. In furtherance and not in limitation of that power, the Board of Directors shall have the power to make, adopt, alter, amend and repeal from time to time bylaws of the Corporation, subject to the right of the stockholders entitled to vote with respect thereto to adopt, amend and repeal bylaws.

**ARTICLE IX  
INDEMNIFICATION**

The Corporation shall indemnify and advance expenses to the fullest extent expressly or otherwise permitted by Section 145 (or any other provision) of the General Corporation Law of Delaware ("DGCL"), as the same may be amended from time to time, to each person who is or was a director or officer of the Corporation and the heirs, executors and administrators of such a person. Any expenses (including attorneys' fees) incurred by each person who is or was a director or officer of the Corporation, and the heirs, executors and administrators of such a person, in connection with defending any such proceeding in advance of its final disposition shall be paid by the Corporation; provided, however, that if the DGCL requires, an advancement of expenses incurred by an indemnitee in his capacity as a director or officer (and not in any other capacity in which service was or is rendered by such indemnitee, including, without limitation, service to an employee benefit plan) shall be made only upon delivery to the Corporation of an undertaking by or on behalf of such indemnitee, to repay all amounts so advanced, if it shall ultimately be determined that such indemnitee is not entitled to be indemnified for such expenses under this Article or otherwise. Notwithstanding the aforementioned indemnification provisions, the Corporation may enter into indemnification agreements with directors or officers.

**ARTICLE X  
LOCATION OF MEETINGS**

Meetings of stockholders may be held within or without the State of Delaware, as the bylaws may provide. The books of the Corporation may be kept (subject to any provision contained in the laws of the State of Delaware) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors or in the bylaws of the Corporation.

**ARTICLE XI  
PERSONAL LIABILITY**

The personal liability of the directors of the Corporation is hereby eliminated to the fullest extent expressly or otherwise permitted by Section 102(b)(7) (or any other provision) of the DGCL, as the same may be amended from time to time.



**ARTICLE XII  
SECTION 203 ELECTION**

The Corporation hereby elects not to be governed by Section 203 of the DGCL.

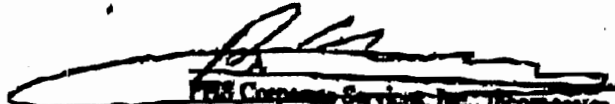
**ARTICLE XIII  
INCORPORATOR**

The name and mailing address of the incorporator are as follows:

PHS Corporate Services, Inc.  
1201 Market Street, Suite 1600  
Wilmington, Delaware 19801

The undersigned incorporator hereby acknowledges that this Certificate of Incorporation of Capsule Communications, Inc. is its act and deed and that the facts stated herein are true.

Dated: October 21, 1999

  
PHS Corporate Services, Inc., Incorporator  
By: Benjamin Strass, Vice President

STATE of DELAWARE  
CERTIFICATE of AMENDMENT of  
CERTIFICATE of INCORPORATION

- **First:** That at a meeting of the Board of Directors of \_\_\_\_\_  
Capsule Communications, Inc.

resolutions were duly adopted setting forth a proposed amendment of the Certificate of Incorporation of said corporation, declaring said amendment to be advisable and calling a meeting of the stockholders of said corporation for consideration thereof.

The resolution setting forth the proposed amendment is as follows:

**Resolved,** that the Certificate of Incorporation of this corporation be amended by changing the Article thereof numbered "IV" so that, as amended, said Article shall be and read as follows:

" The total number of shares of capital stock which the corporation shall have authority to issue is \$1,000 shares of common stock, par value \$.001 per share. "

- **Second:** That thereafter, pursuant to resolution of its Board of Directors, a special meeting of the stockholders of said corporation was duly called and held, upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware at which meeting the necessary number of shares as required by statute were voted in favor of the amendment.
- **Third:** That said amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.
- **Fourth:** That the capital of said corporation shall not be reduced under or by reason of said amendment.

BY: \_\_\_\_\_ /s/  
(Authorized Officer)

NAME: John A. Leach, President  
(Type or Print)

**Lance J.M. Steinhart, P.C.**  
Attorney At Law  
1720 Windward Concourse  
Suite 250  
Alpharetta, Georgia 30005

Also Admitted in New York  
and Maryland

**RECEIVED**

**SEP 17 2003**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

*FORWARDED 9/16/03*

Telephone: (770) 232-9200

Facsimile: (770) 232-9208

Email: lsteinhart@telecomcounsel.com

September 16, 2003

**VIA OVERNIGHT DELIVERY**

**FAX Received** SEP 16 2003

Mr. William Bullard  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Ave-Pierre, SD 57501-5070  
(605) 773-3201

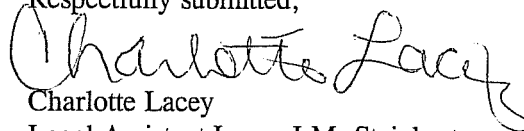
Re: Capsule Communications, Inc.; TC03-098

Dear Mr. Bullard:

Please accept this letter as a request to withdrawal the Application a Certificate of Authority to Provide Interexchange Telecommunications Services in the State of South Dakota for Capsule Communications, Inc.

I have also enclosed an extra copy of this cover letter to be date stamped and returned to me in the enclosed self-addressed prepaid envelope. If you have any questions, or if I may provide you with any additional information, please do not hesitate to contact me.

Respectfully submitted,



Charlotte Lacey  
Legal Assistant Lance J.M. Steinhart  
Attorney for Capsule Communications, Inc.

Enclosures

cc: A. John Leach

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

IN THE MATTER OF THE APPLICATION OF )	ORDER PERMITTING
CAPSULE COMMUNICATIONS, INC. FOR A )	WITHDRAWAL OF
CERTIFICATE OF AUTHORITY TO PROVIDE )	APPLICATION AND
INTEREXCHANGE TELECOMMUNICATIONS )	CLOSING DOCKET
SERVICES IN SOUTH DAKOTA )	TC03-098

On June 20, 2003, Capsule Communications, Inc. (Capsule) filed an application with the Public Utilities Commission (Commission) for a certificate of authority to operate as a telecommunications company within the state of South Dakota.

On September 16, 2003, Capsule requested that its application for a certificate of authority be withdrawn.

At its regularly scheduled September 16, 2003, meeting, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL 49-31-3 and ARSD Chapter 20:10:24. The Commission found that Capsule's request to withdraw its request for a certificate of authority is reasonable and closed the docket. It is therefore

ORDERED, that Capsule shall be permitted to withdraw its request for a certificate of authority, and it is further

ORDERED, that this docket is closed.

Dated at Pierre, South Dakota, this 23<sup>rd</sup> day of September, 2003.

<b>CERTIFICATE OF SERVICE</b>
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>Delaine Kolbo</i></u>
Date: <u>9/25/03</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

*Robert K. Sahr*

ROBERT K. SAHR, Chairman

*Gary Hanson*

GARY HANSON, Commissioner