

KC/HB
RW

In the Matter of - IN THE MATTER OF THE FILING BY
BLACK HILLS FIBERCOM, L.L.C. FOR
DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
7/19/04	Filed and Docketed;
7/22/04	Weekly Filing;
9/23/04	Amendment to Petition for Designation as an ETC;
9/28/04	Second Amendment to Petition for Designation as an ETC;
9/30/04	Order Granting Eligible Telecommunications Designation;
9/30/04	Order Granting Certification;
9/30/04	Docket Closed.



Brian G. Iverson
Associate Counsel

Telephone: (605) 721-2305
Facsimile: (605) 721-2550
Email: biverson@bh-corp.com

July 16, 2004

Ms. Pamela Bonrud
Executive Director
Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

RECEIVED
JUL 19 2004
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Re: *In the Matter of the Petition of Black Hills FiberCom, L.L.C. for Designation as an Eligible Telecommunications Carrier*

Dear Ms. Bonrud:

Enclosed please find the original and ten copies of Black Hills FiberCom's Petition for Designation as an Eligible Telecommunications Carrier. Black Hills FiberCom respectfully request that **Exhibit A to the Petition be filed confidentially**. Copies of the Petition have been served upon interested parties (without attached Exhibit A) as indicated on the Certificate of Service.

Thank you very much and please do not hesitate to contact me should have any questions.

Sincerely,

BLACK HILLS CORPORATION

A handwritten signature in black ink that reads 'B. Iverson'.

Brian G. Iverson
Associate Counsel

/jmr
Encl.

cc: David A. Gerdes
Colleen Sevoid
Talbot J. Wiczorek

BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

RECEIVED

JUL 1 9 2004

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION)
OF BLACK HILLS FIBERCOM, L.L.C.)
FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER)

DOCKET NO. TC04-_____

PETITION FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER

Black Hills FiberCom, L.L.C. ("Black Hills FiberCom") petitions and respectfully requests that the South Dakota Public Utilities Commission ("SDPUC") issue an order designating Black Hills FiberCom as an eligible telecommunications carrier ("ETC") as provided in Section 214 (e) of the Federal Communications Act. The SDPUC's authority to make such designation is specifically codified at 47 U.S.C. § 214(e)(2). In support of this Petition, Black Hills FiberCom represents that:

1. Black Hills FiberCom is a South Dakota-based limited liability company with its principle place of business located at 809 Deadwood Avenue, Rapid City, South Dakota 57702. Black Hills FiberCom was issued a Certificate of Authority ("COA") to provide facilities-based local exchange telecommunications services and other telecommunications services in the South Dakota service territory of Qwest Corporation on August 5, 1998, in Docket No. TC98-101. Black Hills FiberCom has complied with all terms, conditions, and requirements of its COA, as established by the SDPUC in this docket.

2. Black Hills FiberCom is a "telecommunications carrier" as defined by the Federal Communications Act. Black Hills FiberCom provides competitive local exchange service in areas of South Dakota authorized by its COA, pursuant to tariffs

approved by and on file with the SDPUC. This service area includes several communities in the Black Hills region of South Dakota.

3. The SDPUC is authorized, under 47 U.S.C. § 214(e)(5), to define the geographic “service area” for which Black Hills FiberCom shall be designated as an ETC. Black Hills FiberCom emphasizes that the only incumbent carrier’s service territory in which it is authorized to provide service is that of Qwest Corporation, a non-rural carrier. Black Hills FiberCom does not provide service within any rural telecommunications carrier’s service territory, nor does it request ETC designation in any rural telecommunications carrier’s service territory. Because the only service territory in which Black Hills FiberCom offers competitive local exchange service is classified as “non-rural”, the SDPUC is authorized to define its ETC service area at a level other than the incumbent carrier’s study area, and other than the incumbent carrier’s exchange boundaries. Black Hills FiberCom requests that the SDPUC define its ETC service area as the geographic area depicted in the attached maps for the communities of Belle Fourche, Black Hawk, Lead/Deadwood, Piedmont, Spearfish, Sturgis, and Whitewood, which are incorporated by reference and made part of this petition as Exhibit A. Because Black Hills FiberCom currently provides service entirely through its own facilities and not through resale or lease of an incumbent carrier’s facilities, Black Hills FiberCom seeks ETC designation based on the geographic area depicted in Exhibit A, rather than on the incumbent carrier’s exchange boundaries. As required of all ETCs, Black Hills FiberCom will advertise its service offerings throughout this area, and will provide local exchange service to all requesting residential and business customers within this service area, including those qualifying for Lifeline and LinkUp programs.

4. Because the only incumbent local exchange service territory within which Black Hills FiberCom seeks ETC designation is classified as non-rural, the SDPUC is not required to find that this designation is in the public interest as provided in 47 U.S.C. § 214(e)(2). Black Hills FiberCom offers that its designation as an ETC within this portion of the Qwest Corporation service territory is in the public interest. ETC designation will further enhance Black Hills FiberCom's ability to provide high-quality, competitive local exchange service, and its ability to provision, maintain, and upgrade its facilities and services, consistent with the intent of federal universal service support.

5. Black Hills FiberCom's local exchange service offering throughout its service area meets the criteria outlined in 47 CFR § 54.101(a) by including:

- (a) voice grade access to the public switched network
- (b) local usage
- (c) dual-tone multi-frequency signaling or its functional equivalent
- (d) single-party service
- (e) access to emergency services
- (f) access to operator services
- (g) access to interexchange services
- (h) access to directory assistance
- (i) toll limitation for qualifying low-income customers

Black Hills FiberCom will also offer qualifying low-income subscribers in this service area both the Lifeline program as defined in 47 CFR § 54.401 and the Link-Up program as defined in 47 CFR § 54.411, prior to receiving high-cost universal service support as an ETC. Furthermore, Black Hills FiberCom will file for approval by the SDPUC,

updates to its local exchange service tariff to reflect Lifeline and Link-Up discounts for qualifying customers, and will publicize the availability of Lifeline and Link-Up discounts to its customers by appropriate media.

Black Hills FiberCom offers a flat-rate, local exchange service package as required by the terms of its COA. This offering is priced affordably, at rates comparable to those offered by other ETCs operating in South Dakota.

6. In addition to the supported services listed above, Black Hills FiberCom offers many advanced services in its service area that may not otherwise be available to consumers, especially in the smaller, rural communities. These include many advanced custom calling features, and a large local calling area. Deployment of such services is consistent with the public interest and with the policies consistently advanced and articulated by the SDPUC.

7. Black Hills FiberCom meets the federal requirement that ETCs not operate exclusively as resellers of another carrier's services. All local exchange services currently offered by Black Hills FiberCom are provided through facilities deployed and owned by Black Hills FiberCom. Black Hills FiberCom has made significant investments in the network facilities necessary to provide reliable services and offer true competitive choices for consumers in this region of South Dakota.

8. Black Hills FiberCom consistently serves as the only provider of local exchange service to the residences and businesses to which it provides service. The Federal Communications Commission and some state regulatory commissions have raised and examined the issue of duplicative universal service support when considering the designation of competitive ETCs. In some cases, competitive ETCs provide services

to customers that also continue to be served by the incumbent carrier. These situations can create questions over which carrier is the “primary” carrier, and whether universal service support is appropriate for both carriers. Black Hills FiberCom recognizes the potential concerns associated with duplicative support. However, this issue will not be a major concern with regard to Black Hills FiberCom, because it rarely serves customers that also continue to be served by the incumbent local exchange carrier.

9. For the reasons set forth above, designation of Black Hills FiberCom as an ETC in the service area requested is consistent with the public interest and will further the availability of competitive choices and high-quality telecommunications services for South Dakota consumers. Black Hills FiberCom meets all federal and state criteria for such designation.

WHEREFORE, designation as an eligible telecommunications carrier for the purposes of receiving federal universal service support is hereby requested by Black Hills FiberCom, L.L.C., along with any other relief that the SDPUC deems appropriate. Black Hills FiberCom also requests that the SDPUC notify the Federal Communications Commission and the Universal Service Administrative Company of such designation.

Dated the 16th day of July, 2004.

Respectfully submitted,



Brian Iverson
Associate Counsel, Black Hills Corporation
Black Hills FiberCom, L.L.C.
625 Ninth Street
Rapid City, SD 57701
P: 605-721-2305
F: 605-721-2550

CERTIFICATE OF SERVICE

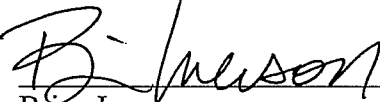
I hereby certify that on the 16th day of July, 2004, I served a copy of BLACK HILLS FIBERCOM, L.L.C.'S Petition for Designation as an Eligible Telecommunications Carrier upon:

David A. Gerdes
May, Adam, Gerdes & Thompson LLP
P.O. Box 160
Pierre, SD 57501-0160
Attorneys for Midcontinent Communications

Qwest Corporation
Attn: Colleen Sevold
125 South Dakota Avenue
Sioux Falls, SD 57194

Talbot J. Wieczorek
Gunderson, Palmer, Goodsell & Nelson
P.O. Box 8045
Rapid City, SD 57709
Attorneys for Western Wireless

by depositing the same in the U.S. Mail, postage prepaid, at Rapid City, South Dakota.



Brian Iverson

CONFIDENTIAL

#1

South Dakota Public Utilities Commission
WEEKLY FILINGS
For the Period of July 15, 2004 through July 21, 2004

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: 605-773-3201

TELECOMMUNICATIONS

TC04-133 In the Matter of the Filing by Black Hills FiberCom, L.L.C. for Designation as an Eligible Telecommunications Carrier.

On July 19, 2004, Black Hills FiberCom, L.L.C. filed a petition for designation as an Eligible Telecommunications Carrier (ETC) in the communities of Belle Fourche, Black Hawk, Lead/Deadwood, Piedmont, Spearfish, Sturgis, and Whitewood. "Because Black Hills FiberCom currently provides service entirely through its own facilities and not through resale or lease of an incumbent carrier's facilities, Black Hills FiberCom seeks ETC designation based on the geographic area depicted in [Confidential] Exhibit A, rather than on the incumbent carrier's exchange boundaries."

Staff Analyst: Harlan Best
Staff Attorney: Karen E. Cremer
Date Filed: 07/19/04
Intervention Deadline: 08/06/04

TC04-134 In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and DIECA Communications, Inc. d/b/a Covad Communications Company.

On July 21, 2004, the Commission received a filing for approval of a Commercial Line-Sharing Amendment to the Interconnection Agreement between Qwest Corporation and DIECA Communications, Inc. d/b/a Covad Communications Company. According to the parties, the Amendment adds terms, conditions and rates for Commercial Line-Sharing. The Amendment replaces the line sharing amendment filed on May 14, 2004, in Docket TC04-096. Any party wishing to comment on the Amendment may do so by filing written comments with the Commission and the parties to the Amendment no later than August 10, 2004. Parties to the Amendment may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Rolayne Ailts Wiest
Date Filed: 07/21/04
Initial Comments Due: 08/10/04

You may receive this listing and other PUC publications via our website or via internet e-mail.
You may subscribe or unsubscribe to the PUC mailing lists at <http://www.state.sd.us/puc>



Brian G. Iverson
Associate Counsel

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September 23, 2004

RECEIVED

SEP 24 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

FAX Received SEP 23 2004

Ms. Pamela Bonrud
Executive Director
Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

Re: TC04-133 - In the Matter of the Petition of Black Hills FiberCom, L.L.C. for Designation as an Eligible Telecommunications Carrier

Dear Ms. Bonrud:

Enclosed please find the original and ten copies of Black Hills FiberCom's Amendment to Petition for Designation as an Eligible Telecommunications Carrier. Copies of the Amended Petition have been served upon interested parties as indicated on the Certificate of Service.

Thank you very much and please do not hesitate to contact me should have any questions.

Sincerely,

BLACK HILLS CORPORATION

Brian G. Iverson
Associate Counsel

/jmr

Encl.

cc: David A. Gerdes
Colleen Sevold
Talbot J. Wiczorek

BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION)
OF BLACK HILLS FIBERCOM, L.L.C.)
FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER)

DOCKET NO. TC04-133

RECEIVED

SEP 24 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

FAX Received SEP 23 2004

AMENDMENT TO
PETITION FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER

Comes now Black Hills FiberCom, L.L.C. (“Black Hills FiberCom”) and requests the South Dakota Public Utilities Commission (SDPUC) to allow Black Hills FiberCom to amend its petition in this docket as follows:

I. Paragraph 3 of Black Hills FiberCom’s petition is amended to read as follows:

3. The SDPUC is authorized, under 47 U.S.C. § 214(e)(5), to define the geographic “service area” for which Black Hills FiberCom shall be designated as an ETC. Black Hills FiberCom emphasizes that the only incumbent carrier’s service territory in which it is authorized to provide service is that of Qwest Corporation, a non-rural carrier. Black Hills FiberCom does not provide service within any rural telecommunications carrier’s service territory, nor does it request ETC designation in any rural telecommunications carrier’s service territory. Black Hills FiberCom requests that the SDPUC define its ETC service area as the following Qwest service areas: Belle Fourche, Black Hawk, Lead/Deadwood, Spearfish, Sturgis, and Whitewood. Black Hills FiberCom intends to provide service through its facilities and through resale or lease of an incumbent carrier’s facilities. As required of all ETCs, Black Hills FiberCom will

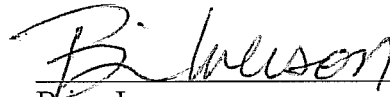
advertise its service offerings throughout this area, and will provide local exchange service to all requesting residential and business customers within this service area, including those qualifying for Lifeline and LinkUp programs.

II. In all other respects the original petition is confirmed, ratified and incorporated herein.

WHEREFORE, Black Hills FiberCom respectfully requests the SDPUC accept the forgoing amendment to its petition and designate Black Hills FiberCom as an eligible telecommunications carrier for the purposes of receiving federal universal service support, along with any other relief that the SDPUC deems appropriate. Black Hills FiberCom also requests that the SDPUC notify the Federal Communications Commission and the Universal Service Administrative Company of such designation.

Dated the 23rd day of September, 2004.

Respectfully submitted,



Brian Iverson
Associate Counsel, Black Hills Corporation
Black Hills FiberCom, L.L.C.
625 Ninth Street
Rapid City, SD 57701
P: 605-721-2305
F: 605-721-2550

CERTIFICATE OF SERVICE

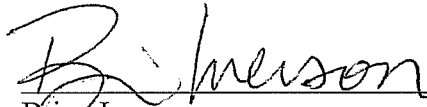
I hereby certify that on the 23rd day of September, 2004, I served a copy of BLACK HILLS FIBERCOM, L.L.C.'S Petition for Designation as an Eligible Telecommunications Carrier upon:

David A. Gerdes
May, Adam, Gerdes & Thompson LLP
P.O. Box 160
Pierre, SD 57501-0160
Attorneys for Midcontinent Communications

Qwest Corporation
Attn: Colleen Sevold
125 South Dakota Avenue
Sioux Falls, SD 57194

Talbot J. Wieczorek
Gunderson, Palmer, Goodsell & Nelson
P.O. Box 8045
Rapid City, SD 57709
Attorneys for Western Wireless

by depositing the same in the U.S. Mail, postage prepaid, at Rapid City, South Dakota.



Brian Iverson



FAX Received 9-28-04

Brian G. Iverson
Associate Counsel

Telephone: (605) 721-2305
Facsimile: (605) 721-2550
Email: biverson@bh-corp.com

September 28, 2004

VIA FEDERAL EXPRESS

RECEIVED

SEP 29 2004

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Ms. Pamela Bonrud
Executive Director
Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

**Re: TC04-133 - In the Matter of the Petition of Black Hills FiberCom, L.L.C. for
Designation as an Eligible Telecommunications Carrier**

Dear Ms. Bonrud:

Enclosed please find the original and ten copies of Black Hills FiberCom's Second Amendment to Petition for Designation as an Eligible Telecommunications Carrier. Copies of the Amended Petition have been served upon interested parties as indicated on the Certificate of Service.

Thank you very much and please do not hesitate to contact me should have any questions.

Sincerely,

BLACK HILLS CORPORATION

Brian G. Iverson
Associate Counsel

/skh

Enclosure

cc: David A. Gerdes
Colleen Sevold
Talbot J. Wiczorek

BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

RECEIVED

SEP 29 2004

IN THE MATTER OF THE PETITION)
OF BLACK HILLS FIBERCOM, L.L.C.)
FOR DESIGNATION AS AN ELIGIBLE)
TELECOMMUNICATIONS CARRIER)

DOCKET NO. TC04-133 SOUTH DAKOTA PUBL
UTILITIES COMMISSIC

SECOND AMENDMENT TO
PETITION FOR DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER

Comes now Black Hills FiberCom, L.L.C. ("Black Hills FiberCom") and requests the South Dakota Public Utilities Commission (SDPUC) to allow Black Hills FiberCom to amend its petition in this docket as follows:

I. Paragraph 5 of Black Hills FiberCom's petition is amended to read as follows:

5. Black Hills FiberCom's local exchange service offering throughout its service area meets the criteria outlined in 47 CFR § 54.101(a) by including:

- (a) voice grade access to the public switched network
- (b) local usage
- (c) dual-tone multi-frequency signaling or its functional equivalent
- (d) single-party service
- (e) access to emergency services
- (f) access to operator services
- (g) access to interexchange services
- (h) access to directory assistance

- (i) toll limitation for qualifying low-income customers through the use of toll blocking.

Black Hills FiberCom will also offer qualifying low-income subscribers in this service area both the Lifeline program as defined in 47 CFR § 54.401 and the Link-Up program as defined in 47 CFR § 54.411, prior to receiving high-cost universal service support as an ETC. Furthermore, Black Hills FiberCom will publicize the availability of Lifeline and Link-Up discounts to its customers by appropriate media.

Black Hills FiberCom offers a flat-rate, local exchange service package as required by the terms of its COA. This offering is priced affordably, at rates comparable to those offered by other ETCs operating in South Dakota.

II. Black Hills FiberCom further requests the SDPUC certify to the Federal Communications Commission that Black Hills FiberCom will use the federal USF support for its intended purposes. In support of this request Black Hills FiberCom asserts that it has incurred expenditures consistent with the purpose of the Universal Service Fund's requirements and objectives in the past and intends to continue its investment in facilities used to provide services for which the support is intended as set forth on the attached Exhibit A and as supported by the Affidavit of Linden R. Evans attached as Exhibit B.

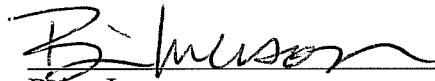
III. In all other respects the original petition is confirmed, ratified and incorporated herein.

WHEREFORE, Black Hills FiberCom respectfully requests the SDPUC:

- A. Accept the forgoing amendment to its petition;
- B. Designate Black Hills FiberCom as an eligible telecommunications carrier for the purposes of receiving federal universal service support;
- C. Certify to the Federal Communications Commission that Black Hills FiberCom will use the federal USF support for its intended purposes;
- D. Notify the Federal Communications Commission and the Universal Service Administrative Company of such designation and certification; and
- E. Such other relief that the SDPUC deems appropriate regarding the designation and certification of Black Hills FiberCom as an eligible telecommunications carrier.

Dated the 28th day of September, 2004.

Respectfully submitted,



Brian Iverson
Associate Counsel, Black Hills Corporation
Black Hills FiberCom, L.L.C.
625 Ninth Street
Rapid City, SD 57701
P: 605-721-2305
F: 605-721-2550

CERTIFICATE OF SERVICE

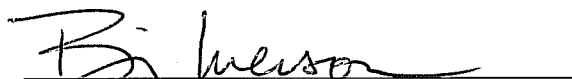
I hereby certify that on the 28th day of September, 2004, I served a copy of BLACK HILLS FIBERCOM, L.L.C.'S Second Amendment to Petition for Designation as an Eligible Telecommunications Carrier upon:

David A. Gerdes
May, Adam, Gerdes & Thompson LLP
P.O. Box 160
Pierre, SD 57501-0160
Attorneys for Midcontinent Communications

Qwest Corporation
Attn: Colleen Sevold
125 South Dakota Avenue
Sioux Falls, SD 57194

Talbot J. Wiczorek
Gunderson, Palmer, Goodsell & Nelson
P.O. Box 8045
Rapid City, SD 57709
Attorneys for Western Wireless

by depositing the same in the U.S. Mail, postage prepaid, at Rapid City, South Dakota.



Brian Iverson

Exhibit A
Black Hills FiberCom

Estimated Year 2005 Federal Universal Service Receipts

High Cost Support Mechanism	\$225,000
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Estimated year 2005 Expenditures for Provision, Maintenance and Upgrading of Facilities and Services Supported by Federal Universal Service Funding

Estimated Plan Specific Operations Expenses

General Support	129,979
Cable and Wire Facilities	879,990
Network Operations	363,592
Depreciation and Amortization	4,688,119

Customer Operations Expenses

Customer Services	588,123
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Corporate Operations Expenses

Executive and Planning	605,706
General and Administrative	882,572

Estimated Total Recurring Year 2005

Supported Expenses, from above,	
Before Return on Investment	8,138,081

Estimated Additions

Switching	100,000
Cable and Wire	420,000

Estimated Total ear 2005 Supported

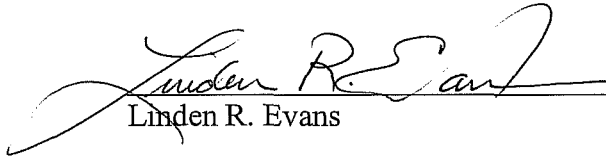
Expenditures, Before Return on Investment	\$ 8,658,081
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Exhibit B

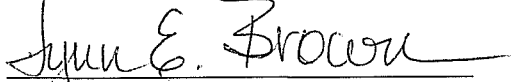
STATE OF SOUTH DAKOTA)
 :SS
COUNTY OF PENNINGTON)

AFFIDAVIT
OF
LINDEN R. EVANS

As Vice President and General Manager of Black Hills FiberCom, L.L.C., I, Linden R. Evans hereby affirm familiarity with and an understanding of the requirements of the Federal Communications Act of 1934, as amended by the Telecommunications Act of 1996, with respect to the receipt of any federal universal service funds received as part of the high-cost support mechanism and hereby affirm that any such support amounts received by Black Hills FiberCom, L.L.C., will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended consistent with 47 U.S.C. § 254(e).

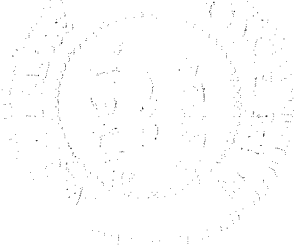

Linden R. Evans

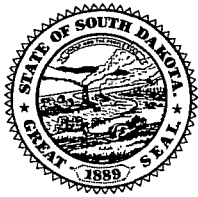
Subscribed and Sworn to before me this 28th day of September, 2004.



Notary Public – South Dakota

My Commission Expires: 6-07-2006





Bob Sahr, Chair
Gary Hanson, Vice-Chair
Jim Burg, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
www.state.sd.us/puc

Capitol Office
(605) 773-3201
(605) 773-3809 fax

Transportation/Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

September 30, 2004

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

Irene Flannery
Universal Service Administrative Company
2000 L Street, NW - Suite 200
Washington, DC 20036

Re: Federal-State Joint Board on Universal Service, CC Docket No. 96-45

Dear Ms. Dortch and Ms. Flannery:

Pursuant to section 214(e)(2) of the Communications Act of 1934, as amended, and 47 C.F.R. section 54.201, the South Dakota Public Utilities Commission (SDPUC) has designated Black Hills FiberCom, L.L.C. (FiberCom) as an Eligible Telecommunications Carrier (ETC). FiberCom was designated as an ETC in South Dakota for certain service areas of Qwest Corporation, a nonrural carrier. The service areas are:

Belle Fourche
Black Hawk
Lead/Deadwood
Spearfish
Sturgis
Whitewood

A copy of the order is enclosed.

If additional information is required, please do not hesitate to call.

Sincerely,

ROLAYNE AILTS WIEST
Commission Attorney

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

IN THE MATTER OF THE FILING BY BLACK)	ORDER GRANTING
HILLS FIBERCOM, L.L.C. FOR DESIGNATION)	ELIGIBLE
AS AN ELIGIBLE TELECOMMUNICATIONS)	TELECOMMUNICATIONS
CARRIER AND FOR CERTIFICATION)	DESIGNATION
REGARDING ITS USE OF FEDERAL)	TC04-133
UNIVERSAL SERVICE SUPPORT)	

On July 19, 2004, the Public Utilities Commission (Commission) received a Petition for Designation as an Eligible Telecommunications Carrier from Black Hills FiberCom, L.L.C. (FiberCom). On September 23, 2004, the Commission received an Amendment to Petition for Designation as an Eligible Telecommunications Carrier from FiberCom. On September 28, 2004, the Commission received a Second Amendment to Petition for Designation as an Eligible Telecommunications Carrier from FiberCom. FiberCom sought designation as an eligible telecommunications carrier (ETC) for certain Qwest Corporation (Qwest) service areas. FiberCom filed its Petition, Amendment to Petition and Second Amendment to Petition on Qwest Corporation and other interested carriers.

On July 22, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of August 6, 2004, to interested individuals and entities. No person or entity filed to intervene.

Pursuant to 47 U.S.C. § 214(e)(2), the Commission is required to designate a common carrier that meets the requirements of section 214(e)(1) as an ETC for a service area designated by the Commission. Pursuant to 47 U.S.C. § 214(e)(1), a common carrier that is designated as an ETC is eligible to receive universal service support and shall, throughout its service area, offer the services that are supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services. The carrier must also advertise the availability of such services and the rates for the services using media of general distribution.

The Federal Communications Commission (FCC) has designated the following services or functionalities as those supported by federal universal service support mechanisms: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equal; (4) single party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers. 47 C.F.R. § 54.101(a).

As part of its obligations as an ETC, an ETC is required to make available Lifeline and Link Up services to qualifying low-income consumers. 47 C.F.R. § 54.405; 47 C.F.R. § 54.411.

FiberCom stated in its Petition that it will provide the following services to all of its customers in the Qwest service areas for which it seeks ETC designation:

1. Voice grade access to the public switched network;
2. Local exchange service, including an amount of local usage free of per minute charges under a flat-rated local service package;
3. Dual tone multi-frequency signaling;
4. Single party service;
5. Access to emergency services such as 911 or Enhanced 911 public services when such services are available;
6. Access to operator services;
7. Access to interexchange services;
8. Access to directory assistance; and
9. Toll block service to qualified low-income consumers.

With respect to the obligation to advertise the availability of services supported by the federal universal service support mechanism and the charges for those services using media of general distribution, FiberCom stated that it will advertise the availability of its local exchange services in media of general distribution in the Qwest service areas for which it seeks ETC designation. FiberCom stated it will offer the Lifeline and Link Up service discounts in the Qwest service areas for which it seeks ETC designation.

Pursuant to its Amendment to Petition, FiberCom requested ETC status in the following Qwest service areas: Belle Fourche; Black Hawk; Lead/Deadwood; Spearfish; Sturgis; and Whitewood.

At its September 30, 2004, meeting, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-31, and 47 U.S.C. § 214. The Commission finds that FiberCom will provide the following services or functionalities throughout the Qwest service areas for which it seeks ETC designation: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling; (4) single-party service; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll blocking for qualifying low-income consumers.

The Commission finds that FiberCom intends to provide Lifeline and Link Up programs to qualifying customers throughout the Qwest service areas for which it seeks ETC designation consistent with state and federal rules and orders.

The Commission finds that FiberCom shall advertise the availability of the services supported by the federal universal service support mechanism and the charges therefor throughout its service area using media of general distribution once each year.

The Commission designates FiberCom as an ETC for the Qwest service areas as listed above. It is therefore

ORDERED, that FiberCom is designated as an ETC for the Qwest service areas as listed above; it is

FURTHER ORDERED, that FiberCom shall follow the advertising requirements as listed above.

Dated at Pierre, South Dakota, this 30th day of September, 2004.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u>Melanie Kolbo</u>
Date:	<u>9/30/04</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Robert K. Sahr

ROBERT K. SAHR, Chairman

Gary Hanson

GARY HANSON, Commissioner

James A. Burg

JAMES A. BURG, Commissioner



Bob Sahr, Chair
Gary Hanson, Vice-Chair
Jim Burg, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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September 30, 2004

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street S.W., Room TW-A306
Washington, DC 20554

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

Ms. Irene Flannery
Universal Service Administrative Company
2000 L Street N.W., Suite 200
Washington, DC 20036

Re: CC Docket No. 96-45

Annual State Certification of Support for Rural Carriers and Non-Rural Carriers

Dear Ms. Dortch and Ms. Flannery:

The South Dakota Public Utilities Commission (Commission) hereby states that the following rural and non-rural incumbent local exchange carriers and/or eligible telecommunications carriers within its jurisdiction have been certified to receive support pursuant to 47 CFR §§ 54.301, 54.305, 54.307, and/or 54.309 and/or part 36, subpart F. The carriers listed below filed requests for certification with the Commission which support their affirmations that all federal high-cost support provided to them will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, consistent with section 254(e) of the Communications Act.

The Commission has granted certification to the following rural incumbent local exchange carriers and/or eligible telecommunications carriers:

Dickey Rural Communications, Inc. (381611) (co. no. 1681)
Dickey Rural Telephone Cooperative (381611) (co. no. 1611)
Farmers Mutual Telephone Company (361389)
Hills Telephone Company, Inc. (Contingent upon completion of sale of exchanges by Sioux Valley Telephone Company to Hills Telephone - See enclosed order.)

The Commission has granted certification to the following non-rural eligible telecommunications carriers:

Black Hills FiberCom, L.L.C. (competitive ETC)
Midcontinent Communications (competitive ETC)

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

IN THE MATTER OF THE FILING BY BLACK)	ORDER GRANTING
HILLS FIBERCOM, L.L.C. FOR DESIGNATION)	CERTIFICATION
AS AN ELIGIBLE TELECOMMUNICATIONS)	
CARRIER AND FOR CERTIFICATION)	TC04-133
REGARDING ITS USE OF FEDERAL)	
UNIVERSAL SERVICE SUPPORT)	

On July 19, 2004, the South Dakota Public Utilities Commission (Commission) received a filing from Black Hills FiberCom, L.L.C. (Company) regarding its request for designation as an eligible telecommunications carrier. On September 28, 2004, the Commission received a second amendment to the filing requesting certification regarding its use of federal universal service support. The purpose of the second amendment was to provide information constituting Company's plan for the use of its federal universal service support and to otherwise verify that Company will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. § 254. As a part of its plan, Company listed estimates of the support it expected to receive from the Universal Service Administrative Company (USAC) as well as its estimated costs for the provision, maintenance, and upgrading of facilities and services. An Affidavit was attached to the Request for Certification.

Pursuant to 47 C.F.R. § 54.313, a state that desires an eligible telecommunications carrier serving lines within the service area of an incumbent non-rural carrier to receive future federal universal service support must file an annual certification with the Federal Communications Commission and USAC stating that federal high cost support provided to such carrier within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. This certification requirement applies to various categories of federal universal service support. Support provided under FCC rules will only be made available if the State Commission files the requisite certification pursuant to § 54.313.

On July 22, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of August 6, 2004, to interested individuals and entities. No parties sought intervention.

At its regularly scheduled meeting of September 30, 2004, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-31, and 47 U.S.C. § 254. The Commission found that the Company is eligible to receive federal support as it states it will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The Commission unanimously voted to approve Company's Request for Certification Regarding Its Use of Federal Universal Service Support. It is therefore

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

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

Dated at Pierre, South Dakota, this 30th day of September, 2004.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u><i>Helaine Kallio</i></u>
Date:	<u>9/30/04</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Robert K. Sahr

ROBERT K. SAHR, Chairman

Gary Hanson

GARY HANSON, Commissioner

James A. Burg

JAMES A. BURG, Commissioner