

TC04-189

TC04-189

KC/HB
RW

DOCKET NO. _____

In the Matter of IN THE MATTER OF THE REQUEST OF
SANTEL COMMUNICATIONS
COOPERATIVE, INC. FOR
CERTIFICATION REGARDING ITS USE
OF FEDERAL UNIVERSAL SERVICE
SUPPORT

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
8/31 04	Filed and Docketed;
9/2 04	Weekly Filing;
9/22 04	Order Granting Certification;
9/22 04	Docket Closed.

AUG 31 2004

**BEFORE THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION**

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

**IN THE MATTER OF THE REQUEST OF SANTEL
COMMUNICATIONS COOPERATIVE FOR
CERTIFICATION REGARDING ITS USE OF
FEDERAL UNIVERSAL SERVICE SUPPORT**

DOCKET NO. _____

REQUEST FOR CERTIFICATION

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

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

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

switching support, safety net additive support, and safety valve support). Support provided under these FCC rule provisions will only in the future be made available if the State Commission files the requisite certification pursuant to § 54.314.

2. The certification required for rural carriers to receive federal universal service support for all four quarters during calendar year 2005 is currently due to be filed with the FCC and USAC on or before October 1, 2004. The certification may be presented to these entities in the form of a letter from the State Commission. The letter must identify which carriers in the State are eligible to receive federal support during the 12-month period and must certify that the carriers listed will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

3. The Company is a rural telephone company that has previously been designated by this Commission as an eligible telecommunications carrier. The Company provides local exchange telephone services, including all of the essential services that are included in the federal definition of universal service, to approximately 4825 access lines within its established rural service area in South Dakota.

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

intended. Based on this filed plan, it is anticipated that the State Commission may make the appropriate certification to the FCC.²

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

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

- (1) Quality services should be available at just, reasonable, and affordable rates.
- (2) Access to advanced telecommunications and information services should be provided in all regions of the Nation.
- (3) Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas. . . .
- (6) Elementary and secondary schools and classrooms, health care providers, and libraries should have access to [certain] advanced telecommunications services. . . .

7. The FCC has declined to dictate specifically how the states should ensure that carriers are using federal universal service support consistent with the federal law, but has

² Fourteenth Report and Order, ¶ 188.

offered examples of how the support can be used to appropriately further universal service goals.

The FCC has stated:

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

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

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

9. The Company as a designated eligible telecommunications carrier has received federal universal service support in the past and expects to receive support during calendar year 2005. As of this time, specific support amounts the Company should receive in 2005 have not yet been identified by USAC. Included in Exhibit A attached hereto, however, are estimated universal service support amounts for such period.

10. The Company also provides in Exhibit A, attached hereto, estimates of the expenditures that will be incurred in year 2005 for the provision, maintenance, and upgrading of facilities and services supported by federal universal service. Consistent with the universal service principles set forth in the federal law and also the FCC orders referenced herein, the Company will use federal universal service amounts received in 2005 to offset a portion of 2005 expenditures incurred within the accounts referenced in Exhibit A. This use of federal universal service support will enable the Company to: (1) maintain rates for its local exchange services that are affordable and reasonably comparable to rates being charged for the same services in

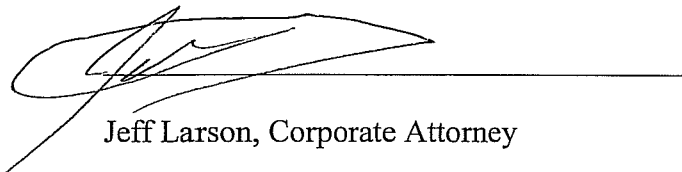
³ Ninth Report and Order and Eighteenth Order on Reconsideration in CC Docket No. 96-45 (In the Matter of the Federal-State Joint Board on Universal Service), FCC 99-306, ¶ 96, November 2, 1999.

urban areas; and (2) to upgrade its telecommunications facilities and equipment as necessary to meet evolving service requirements and maintain high quality service. The use of federal universal service support for these purposes is clearly consistent with the federal universal service provisions.

11. Based on the foregoing information, the attached Exhibit A and Exhibit B, Affidavit of Gene Kroell, the Company requests that this Commission issue an appropriate certification to the FCC and USAC indicating that Santel Communications Cooperative is in compliance with 47 U.S.C. § 254(e) and should receive all federal universal service support determined for distribution to the Company in 2005. In order to ensure that this certification is issued to the FCC prior to October 1, 2004, the Company would further ask the Commission to expedite the process that is initiated based on this filing.

Dated this 11th day of August, 2004.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jeff Larson", is written over a horizontal line. The signature is stylized and somewhat cursive.

Jeff Larson, Corporate Attorney

Exhibit A
Santel Communications Cooperative

Estimated Year 2005 Federal Universal Service Receipts

High cost loop support	\$1,500,000
Local switching support	\$ 395,000
Safety Net Additive support	\$ 0
Safety Valve Loop Cost Adjustment	\$ 0
TOTAL	<u>\$1,895,000</u>

Estimated Year 2005 Expenditures For Provision, Maintenance, and Upgrading Of Facilities and Services Supported By Federal Universal Service Funding

Estimated Plant Specific Operations Expenses

Network support (Accts. 6110-16)	\$ 10,000
General support (Accts. 6120-24)	\$ 200,000
Central office (Accts. 6210-6232)	\$ 520,000
Cable and wire facilities (Accts. 6410-6441)	\$ 185,000
Network operations (Accts. 6530-35)	\$ 275,000
Depreciation and amortization (Accts. 6560-65)	\$2,600,000

Customer operations expenses

Customer services (Accts. 6620-23)	\$ 530,000
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Corporate operations expenses

Executive and planning (Accts. 6710-6712)	\$ 250,000
General and administrative (Accts. 6720-28)	\$ 500,000

Estimated Total Recurring Year 2005

Supported Expenses, from above, Before Return On Investment	\$5,070,000
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Estimated Additions

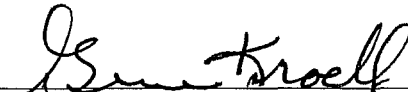
Switching (Acct. 2210)	\$ 150,000
Cable and wire (Acct. 2410)	<u>\$2,000,000</u>
TOTAL	\$2,150,000

Estimated Total Year 2005 Supported

Expenditures, Before Return On Investment	\$7,220,000
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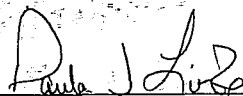
Exhibit B
AFFIDAVIT

As an authorized representative of Santel Communications Cooperative, I, Gene Kroell hereby affirm familiarity with and an understanding of the requirements of the Federal Communications Act of 1934, as amended by the Telecommunications Act of 1996, with respect to the receipt of any federal universal service funds received as high-cost loop support, local switching support, safety net additive support, and/or safety valve support and hereby affirm that any such support amounts received by Santel Communications Cooperative 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).



Gene Kroell

Subscribed and Sworn to before me this 11th day of August 2004.



NOTARY PUBLIC

My Commission expires: April 14, 2007

South Dakota Public Utilities Commission
WEEKLY FILINGS
For the Period of August 26, 2004 through September 1, 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

NATURAL GAS

NG04-008 **In the Matter of the Filing by NorthWestern Energy for Approval of Tariff Revisions.**

Application by NorthWestern Energy to update its fuel retention percentage for natural gas transportation service. NorthWestern Energy's tariff provides that the fuel retention percentage be adjusted annually with the updated percentage to be effective October 1 of each year.

Staff Analyst: David Jacobson
Staff Attorney: Karen Cremer
Date Filed: 08/31/04
Intervention Deadline: 09/17/04

NG04-009 **In the Matter of the Filing by NorthWestern Energy for Approval of a Contract with Deviations and Approval of Tariff Revisions.**

Application by NorthWestern Energy for approval of a contract with deviations for service to Northern Lights Ethanol Plant by discontinuing to charge for company used and lost and unaccounted for gas. NorthWestern Energy states the gas line serving the plant is a direct line to the plant and does not come in contact with the NorthWestern distribution system. The filing also proposes to remove certain currently listed contracts with deviations because they are no longer in effect.

Staff Analyst: Dave Jacobson
Staff Attorney: Karen Cremer
Date Filed: 08/31/04
Intervention Deadline: 09/17/04

TELECOMMUNICATIONS

TC04-188 **In the Matter of the Request of PrairieWave Community Telephone, Inc. for Certification Regarding its Use of Federal Universal Service Support.**

On August 30, 2004, PrairieWave Community Telephone, Inc. (PrairieWave) provided information constituting PrairieWave's plan for the use of its federal universal service support and to otherwise verify that PrairieWave will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. Section 254.

Staff Analyst: Harlan Best
Staff Attorney: Karen E. Cremer
Date Filed: 08/30/04
Intervention Deadline: 09/10/04

TC04-189 In the Matter of the Request of Santel Communications Cooperative for Certification Regarding its Use of Federal Universal Service Support.

On August 31, 2004, Santel Communications Cooperative (Santel) provided information constituting Santel's plan for the use of its federal universal service support and to otherwise verify that Santel will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. Section 254.

Staff Analyst: Harlan Best
Staff Attorney: Karen E. Cremer
Date Filed: 08/31/04
Intervention Deadline: 09/10/04

TC04-190 In the Matter of the Request of Great Plains Communications, Inc. for Certification Regarding its Use of Federal Universal Service Support.

On August 31, 2004, Great Plains Communications, Inc. (Great Plains) provided information constituting Great Plains' plan for the use of its federal universal service support and to otherwise verify that Great Plains will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. Section 254.

Staff Analyst: Harlan Best
Staff Attorney: Karen E. Cremer
Date Filed: 08/31/04
Intervention Deadline: 09/10/04

TC04-191 In the Matter of the Filing for Approval of Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services and Resale of Telecommunications Services between Qwest Corporation and Qwest Communications Corporation.

On September 1, 2004, the Commission received a filing for approval of Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunication Services Agreement between Qwest Corporation (Qwest) and Qwest Communications Corporation (QCC). The parties state that the Agreement "sets forth the terms, conditions and prices under which Qwest will provide services for resale to QCC for the provision of local exchange services." Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the Agreement no later than September 21, 2004. Parties to the Agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Rolayne Ailts Wiest
Date Filed: 09/01/04
Initial Comments Due: 09/21/04

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

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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1-800-332-1782

September 24, 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
2120 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:

Alliance Communications Cooperative, Inc. (391642)
Armour Independent Telephone Company (391640)
Beresford Municipal Telephone Company (391649)
Bridgewater-Canistota Independent Telephone Company (391640) (co. no. 0158)
Cheyenne River Sioux Tribe Telephone Authority (391647)
Citizens Telecommunications Company of Minnesota, LLC (361123)
City of Brookings Municipal Telephone Department (391650)
City of Faith Municipal Telephone Company (391653)
Consolidated Telcom (381607)
Golden West Telecommunications Cooperative, Inc. (391659)
Great Plains Communications, Inc. (371577)
Heartland Telecommunications Company of Iowa d/b/a Hickory Tech Corporation (351096)
Interstate Telecommunications Cooperative, Inc. (391654)

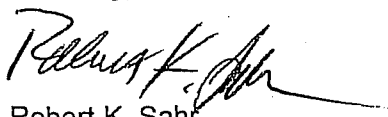
James Valley Cooperative Telephone Company (391664)
Jefferson Telephone Company (391666)
Kadoka Telephone Company (391667)
Kennebec Telephone Company (391668)
McCook Cooperative Telephone Company (391669)
Midstate Communications, Inc. (391670)
Mount Rushmore Telephone Company and Fort Randall Telephone Company (391660)
Northeast Nebraska Telephone Company (371576)
PrairieWave Community Telephone, Inc. (391652)
Red River Telecom, Inc. (381631)
Roberts County Telephone Cooperative Association and RC Communications, Inc. (391674)
RT Communications, Inc. (512251)
Santel Communications Cooperative, Inc. (391676)
Sioux Valley Telephone Company (391677)
Splitrock Properties, Inc. (391657)
Stockholm-Strandburg Telephone Company (391679)
Three River Telco (371525)
Tri-County Telcom, Inc. (391682)
Union Telephone Company (391684)
Valley Telecommunications Cooperative Association, Inc. (391685)
Valley Telephone Company (361495)
Venture Communications Cooperative (391680)
Vivian Telephone Company (391686)
Western Telephone Company (391688)
Western Wireless Corporation (399002) (competitive ETC)
West River Cooperative Telephone Company (391689)
West River Telecommunications Cooperative (381637) (co. no. 4414)
West River Telecommunications Cooperative (Mobridge) (391671)

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

Qwest Corporation (395145)
Western Wireless Corporation (399002) (competitive ETC)

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

Sincerely,



Robert K. Sahr
Chairman



Gary Hanson
Commissioner

James A. Burg
Commissioner

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

IN THE MATTER OF THE REQUEST OF)	ORDER GRANTING
SANTEL COMMUNICATIONS COOPERATIVE,)	CERTIFICATION
INC. FOR CERTIFICATION REGARDING ITS)	
USE OF FEDERAL UNIVERSAL SERVICE)	TC04-189
SUPPORT)	

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

The certification required for rural carriers to receive federal universal support for all four quarters during calendar year 2005 is currently due to be filed with the FCC and USAC on or before October 1, 2004. The certification may be presented to these entities in the form of a letter from the State Commission. The letter must identify which carriers in the state are eligible to receive federal support during the 12-month period and must certify that the carriers listed will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

On August 31, 2004, the South Dakota Public Utilities Commission (Commission) received a filing from Santel Communications Cooperative, Inc. (Company) regarding its Request for Certification Regarding its Use of Federal Universal Service Support. The purpose of this filing was to provide information constituting Company's plan for the use

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

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 USAC as well as its estimated costs for the provision, maintenance, and upgrading of facilities and services. An Affidavit was attached to the Request for Certification.

On September 2, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of September 10, 2004, to interested individuals and entities. No parties sought intervention.

At its regularly scheduled meeting of September 14, 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 22nd 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>Relaine Kaabo</u>
Date: <u>9/23/04</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