



# THE REBENS DORF GROUP, INC.

•• MANAGEMENT CONSULTING •• INVESTMENT BANKING •• REGULATORY COMPLIANCE ••

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March 15, 2004

South Dakota Public Utilities Commission  
State Capitol Building  
500 East Capitol Avenue  
Pierre, South Dakota, SD 57501-5070

**RECEIVED**  
APR 12 2004  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Dear Sir or Madam:

Pursuant to SDCL 49-31-3 and ARSD 20:10:24:02, please consider this document to represent the Application of Cognigen Networks, Inc. for a Certificate of Authority to provide resold telecommunications services within the State of South Dakota.

- 1) The name of the Applicant is Cognigen Networks, Inc. (hereinafter "Cognigen" or the "Applicant"). Its address is 7001 Seaview Avenue NW, Suite 210, Seattle, WA 98117, and its phone number is (206) 297 6151.
- 2) Services will be provided under the name of the Applicant.
- 3) The Applicant is a corporation.
- 4)
  - a. Applicant was organized in Colorado on May 6, 1983.
  - b. The name and address of its registered agent in South Dakota is: CT Corporation System, 319 South Coteau Street, Pierre, SD 57501.
  - c. Applicant is a public company listed on NASDAQ under the symbol CGNW.
- 5) The Applicant will provide long distance telecommunications services under tariffs to be filed in conjunction with this Application.
- 6) The services will be provided via transport of several major carries, such as Sprint and Global Crossing.
- 7) The services will be provided in all counties in South Dakota.
- 8) Financial statements are included as Exhibit "A" hereof, by this reference incorporated herein.

9) Customer Service:  
 Jim Boswell  
 3220 S. Higuera Street, Suite 103A  
 San Luis Obispo, CA 93401  
 (805) 786 2640  
 (805) 786 2644 fax  
 jimboswell@att.net

Regulatory Contact:

George Rebensdorf  
The Rebensdorf Group, Inc.  
30211 Avenida de las Banderas, Suite 200  
Rancho Santa Margarita, CA 92688  
(949) 766 6710  
(949) 766 6711 fax  
[gr@rebensdorf.com](mailto:gr@rebensdorf.com)

- 10) Applicant is certified to provide telecommunications services in Colorado, California, Idaho, Washington, Arkansas, Nebraska, Michigan, Texas, New Jersey, North Dakota, Indiana, New Hampshire, Oregon, Vermont, North Carolina, and Virginia. It has not been denied registration or certification in any state.
- 11) The company does not employ multi-level marketing strategies, although it has in the past. It utilizes independent agents to solicit sales, as well as internet referrals.
- 12) N/A
- 13) Tax ID#: 84-1089377
- 14) No complaints have been filed against Applicant for unauthorized switching or charging of a customer's account.
- 15) N/A

Respectfully Submitted:



George Rebensdorf  
The Rebensdorf Group, Inc.  
Regulatory counsel to Applicant.



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](http://www.state.sd.us/puc)

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(605) 773-3809 fax

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

Consumer Hotline  
1-800-332-1782

VIA FAX: 949-766-6711

April 12, 2004

Mr. George Rebensdorf  
Attorney at Law  
The Rebensdorf Group, Inc.  
30211 Avenida de las Banderas, Suite 200  
Rancho Santa Margarita, CA 92688

RE: Application for Certificate of Authority  
Cognigen Networks, Inc.

Dear Mr. Rebensdorf:

We received your Application for a Certificate of Authority to operate as an interexchange telecommunications company in the state of South Dakota. Pursuant to SDCL 49-31-3, telecommunication companies shall submit a \$250 application fee when filing:

**SDCL 49-31-3. Each telecommunications company that plans to offer or provide interexchange telecommunications service shall file an application for a certificate of authority with the commission pursuant to this section. Telecommunications companies seeking to provide any local exchange service shall submit an application for certification by the commission pursuant to §§ 49-31-1 through 49-31-89. Applications required by this section shall be filed by the company no less than sixty days before its initiation of telecommunications service in this state. The commission shall have the exclusive authority to grant a certificate of authority. Each telecommunications company shall submit a two hundred fifty dollar application fee with its application which shall be deposited into the gross receipts tax fund established pursuant to § 49-1A-2.**

We cannot take any action on your application until we receive the applicable fee.

Thank you for your cooperation in this matter.

Sincerely,

Delaine Kolbo  
Legal Secretary

**South Dakota Public Utilities Commission**  
**WEEKLY FILINGS**  
**For the Period of April 8, 2004 through April 14, 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**

**TC04-074      In the Matter of the Filing for Approval of an Interconnection Agreement between Midcontinent Communications and PrairieWave Telecommunications, Inc. and PrairieWave Community Telephone, Inc.**

On April 8, 2004, the Commission received a filing for approval of an Interconnection Agreement between Midcontinent Communications, PrairieWave Telecommunications, Inc., and PrairieWave Community Telephone, Inc. According to the parties, the Agreement sets forth the terms, conditions and prices under which the parties agree to provide interconnection and reciprocal compensation for the exchange of local traffic between the Parties. 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 April 28, 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: 04/08/04  
Initial Comments Due: 04/28/04

**TC04-075      In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and XO Network Services, Inc.**

On April 9, 2004, the Commission received a filing for approval of a Triennial Review Order Amendment to the Interconnection Agreement between Qwest Corporation and XO Network Service, Inc. According to the parties, the Amendment changes or adds terms, conditions, and rerates for certain network elements. 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 April 29, 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: 04/09/04  
Initial Comments Due: 04/29/04

**TC04-076      In the Matter of the Application of Cognigen Networks, Inc. for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota.**

On April 12, 2004, Cognigen Networks, Inc. filed an application for a Certificate of Authority to provide resold interexchange telecommunication services in South Dakota. Cognigen Networks, Inc. intends to provide resold interexchange long distance services throughout South Dakota.

Staff Analyst: Steve Wegman  
Staff Attorney: Karen Cremer  
Date Filed: 04/12/04  
Intervention Deadline: 04/30/04

**TC04-077      In the Matter of the Petition of James Valley Cooperative Telephone  
Company for Suspension of Intermodal Local Number Portability Obligations.**

On April 14, 2004, James Valley Cooperative Telephone Company (James Valley) filed a petition seeking suspension or modification of Section 251(b)(2) of the Telecommunications Act of 1996 regarding intermodal (wireline to wireless) number portability. James Valley also is seeking an immediate suspension of Section 251(b)(2) pending the Commission's consideration of the suspension request until six (6) months following the Commission's decision. According to James Valley, it has received requests for LNP from Verizon Wireless, Western Wireless, and RCC Wireless. James Valley states that it is a small telephone company that serves less than two percent of the nation's subscriber lines installed in the aggregate nationwide, therefore under Section 251(f)(2) James Valley may petition the Commission for suspension or modification of its obligation to implement LNP within six months of a request to deploy LNP. James Valley "requests the Commission to (1) issue an interim order that suspends any obligation that may exist for James Valley to provide LNP until six months after entry of a final order herein; (2) issue a final order that grants a permanent suspension for James Valley's obligation to implement LNP until the conditions are met as described herein; and (3) grant James Valley such other and further relief that may be proper."

Staff Analyst: Harlan Best  
Staff Attorney: Rolayne Ailts Wiest  
Date Filed: 04/14/04  
Intervention Deadline: 04/30/04

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You may subscribe or unsubscribe to the PUC mailing lists at <http://www.state.sd.us/puc>**

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

IN THE MATTER OF THE APPLICATION OF )  
COGNIGEN NETWORKS, INC. FOR A )  
CERTIFICATE OF AUTHORITY TO PROVIDE )  
INTEREXCHANGE TELECOMMUNICATIONS )  
SERVICES IN SOUTH DAKOTA )

**ORDER DENYING  
CERTIFICATE OF  
AUTHORITY**

**TC04-076**

On April 12, 2004, the Public Utilities Commission (Commission), in accordance with SDCL 49-31-3 and ARSD 20:10:24:02, received an incomplete application for a certificate of authority from Cognigen Networks, Inc. (Cognigen).

Cognigen proposes to provide long distance telecommunications services throughout South Dakota.

On April 15, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of April 30, 2004, to interested individuals and entities. At its regularly scheduled June 22, 2004, meeting, the Commission considered Cognigen's request for a certificate of authority. Commission Staff recommended denying the certificate of authority and closing the docket as Cognigen had failed to pay the required \$250.00 application fee.

The Commission finds that it has jurisdiction over this matter pursuant to Chapter 49-31, specifically 49-31-3 and ARSD 20:10:24:02 and 20:10:24:03. The Commission finds that Cognigen has not met the legal requirements established for the granting of a certificate of authority. Cognigen has not, in accordance with SDCL 49-31-69, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota. Pursuant to ARSD 20:10:32:06 the Commission voted to deny Cognigen's application for a certificate of authority. As the Commission's final decision in this matter, it is therefore

ORDERED, that Cognigen's application for a certificate of authority is hereby denied.

Dated at Pierre, South Dakota, this 30<sup>th</sup> day of June, 2004.

<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 first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u>Delaine Koles</u>
Date:	<u>7/1/04</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

# EARLY, LENNON, CROCKER & BARTOSIEWICZ, P.L.C.

ATTORNEYS AT LAW  
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KRISTEN L. GETTING

OF COUNSEL  
THOMPSON BENNETT  
JOHN T. PETERS, JR.

VINCENT T. EARLY  
(1922 - 2001)  
JOSEPH J. BURGIE  
(1926 - 1992)

August 26, 2004

Pamela Bonrud, Executive Director  
South Dakota Public Utilities Commission  
State Capitol Building  
500 East Capital Avenue  
Pierre, SD 57501

**RECEIVED**

**AUG 27 2004**

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

RE: Cognigen Networks, Inc.  
TC04-076

Dear Ms. Bonrud:

Enclosed herewith for filing with the Commission, please find an original and ten (10) copies of the above referenced corporation's MOTION FOR RECONSIDERATION OF DECISION IN DOCKET TC04-076 AND WAIVER OF 30-DAY DEADLINE

Also enclosed is an exact duplicate of this Motion. Please stamp the duplicate and return same in the enclosed, postage-paid envelope.

Should you have any questions, please contact me.

Very truly yours,

EARLY, LENNON, CROCKER & BARTOSIEWICZ, P.L.C.

Patrick D. Crocker

PDC/bmr

enc

BEFORE THE  
PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION OF )  
COGNIGEN NETWORKS, INC. FOR A )  
CERTIFICATE OF AUTHORITY TO PROVIDE ) TC04-076  
INTEREXCHANGE TELECOMMUNICATIONS )  
SERVICES IN SOUTH DAKOTA )

RECEIVED

AUG 27 2004

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

**MOTION FOR RECONSIDERATION OF DECISION IN DOCKET TC04-076  
AND WAIVER OF 30-DAY DEADLINE**

**Cognigen Networks, Inc.** (hereinafter "Applicant") respectfully requests that the Public Utilities Commission of the State of South Dakota (hereinafter referred to as "Commission") reconsider its Decision, pursuant to §20:10:01:30.01, to Deny a Certificate of Authority in Docket TC04-076. Applicant also requests a waiver of the 30-day deadline for filing the Application. In support of this request, Applicant provides the following:

**Background**

1. On or around the date of the original filing, Applicant was in the process of obtaining new legal representation, and did so on March 19, 2004.
2. As the Attorneys of Record for Applicant, a facsimile copy of the *Minutes* for the June 22, 2004 Commission Meeting ("*Minutes*") were received on August 6, 2004. This facsimile was the first notification that Applicant had an Application before the Commission. As the *Order* became effective June 30, 2004, the 30-day "appeal" period had already expired.
3. Subsequent to receiving the *Minutes*, a copy of the *Order Denying Certificate of Authority* ("*Order*") was obtained from the Commission's website. According to the *Minutes* and the *Order*, the Commission made "numerous" attempts to contact the company stating it needed to send the \$250 application fee. These contacts were made to Applicant's previous consultant, who apparently did not indicate to Commission staff that Applicant had subsequently retained new representation.

Due to facts and circumstances arising subsequent to filing the Application and the subsequent *Order Denying Certificate of Authority*, COGNIGEN NETWORKS, INC. respectfully requests that this Commission:

1. extend the deadline to file for reconsideration from 30-days following the Order to 30-days following notification;
2. re-open Docket No. TC04-076;
3. permit Applicant to withdraw its original Application nunc pro tunc.

Respectfully submitted,  
COGNIGEN NETWORKS, INC.

Dated: August 26, 2004

By: \_\_\_\_\_

Patrick D. Crocker  
Early, Lennon, Crocker & Bartosiewicz, P.L.C.  
900 Comerica Building  
Kalamazoo, MI 49007  
(269) 381-8844

**VERIFICATION**

Patrick D. Crocker, Attorney for COGNIGEN NETWORKS, INC., first being duly sworn on oath, deposes and says that he has read the foregoing Application and verifies that the statements made therein are true and correct to the best of his knowledge, information, and belief.

Cognigen Networks, Inc.

By: \_\_\_\_\_

Patrick D. Crocker

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of August 2004 by Patrick D. Crocker.

Karen L. Doster

KAREN L. DOSTER  
Notary Public, Allegan County, MI  
Acting in Kalamazoo County, MI  
My Commission Expires: May 27, 2008



The Commission finds that it has jurisdiction over this matter pursuant to Chapter 49-31, specifically 49-31-3 and ARSD 20:10:24:02 and 20:10:24:03.

On September 14, 2004, at its regularly scheduled meeting, the Commission voted to grant the Motion for Reconsideration of Decision and to reopen the docket. It is therefore

ORDERED, that Cognigen's Motion for Reconsideration of Decision is hereby granted and the docket is reopened.

Dated at Pierre, South Dakota, this 22<sup>nd</sup> day of September, 2004.

<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 first class mail, in properly addressed envelopes, with charges prepaid thereon.
By: <u><i>Delaine Kelso</i></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

# EARLY, LENNON, CROCKER & BARTOSIEWICZ, P.L.C.

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JOHN T. PETERS, JR.

VINCENT T. EARLY  
(1922 - 2001)  
JOSEPH J. BURGIE  
(1926 - 1992)

September 27, 2004

Pamela Bonrud, Executive Director  
South Dakota Public Utilities Commission  
State Capitol Building  
500 East Capital Avenue  
Pierre, SD 57501

RECEIVED  
SEP 28 2004  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

RE: Cognigen Networks, Inc.  
Docket No. TC04-076

Dear Ms. Bonrud:

We are the attorneys for Cognigen Networks, Inc. On September 22, 2004, the Commission granted a Motion for Reconsideration of Decision and reopened Docket No. TC04-076. At this time, we respectfully request the Application be withdrawn.

Also enclosed is an exact duplicate of this letter. Please stamp the duplicate and return same in the enclosed, postage-paid envelope.

Should you have any questions, please contact me.

Very truly yours,

EARLY, LENNON, CROCKER & BARTOSIEWICZ, P.L.C.

Patrick D. Crocker

PDC/bmr

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

IN THE MATTER OF THE APPLICATION OF ) COGNIGEN NETWORKS, INC. FOR A ) CERTIFICATE OF AUTHORITY TO PROVIDE ) INTEREXCHANGE TELECOMMUNICATIONS ) SERVICES IN SOUTH DAKOTA ) )	ORDER PERMITTING WITHDRAWAL OF APPLICATION AND CLOSING DOCKET  TC04-076
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On August 27, 2004, Cognigen Networks, Inc. (Cognigen) filed a motion for reconsideration with the Public Utilities Commission (Commission) requesting that the Commission reconsider its decision to deny a certificate of authority to Cognigen. The Commission granted Cognigen's motion for reconsideration on September 22, 2004. The Commission also reopened the docket.

On September 28, 2004, Cognigen requested that its application for a certificate of authority be withdrawn.

At its regularly scheduled October 12, 2004, meeting, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL 49-31-3 and ARSD Chapters 20:10:24 and 20:10:32. The Commission found that Cognigen's request to withdraw its application for a certificate of authority is reasonable and closed the docket. It is therefore

ORDERED, that Cognigen shall be permitted to withdraw its application for a certificate of authority, and it is further

ORDERED, that this docket is closed.

Dated at Pierre, South Dakota, this 20th day of October, 2004.

<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>                    Neilson Kalles                    </u>
Date:	<u>                    10/21/04                    </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