

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

IN THE MATTER OF THE REQUEST FOR A)	MOTION FOR ORDER
CONFIDENTIALITY DETERMINATION IN)	PERMITTING RELEASE OF
ACCORDANCE WITH ARSD 20:10:01:42)	INFORMATION FILED AS
)	CONFIDENTIAL
)	TC05-017

Pursuant to ARSD 20:10:01:42 and ARSD 20:10:01:43, Staff moves and requests that the Commission issue an Order Permitting Release of Information Filed as Confidential.


On January 18, 2005, the Executive Director of the Commission, Ms. Pamela A. Bonrud was served a federal subpoena on her person by counsel for the Local Exchange Carriers Association, Inc. (LECA). The subpoena was served in regards to the matter pending in the United States District Court, the District of South Dakota, S&S Communications v. LECA, Case Number 02-1028. The subpoena commands the Commission "to produce and permit inspection and copying of. . . (1) [a]ll documents submitted to the South Dakota Public Utilities Commission by or on behalf of S&S Communications (SDPUC), (2) unredacted versions of all orders issued by the SDPUC relating to S&S Communications, (3) all transcripts of hearings involving S&S Communications." A portion of the subpoenaed documents were originally filed as confidential by S&S and accordingly have been treated and held as confidential by the Commission. Other requested documents were ruled by the Commission to be held confidential at the hearing in Docket TC02-166.

According to ARSD 20:10:01:42 and ARSD 20:10:01:43, the Commission upon a request for access to confidential information shall make a determination as to the confidentiality of documents treated as confidential. The Commission has treated certain documents pertaining to S&S Communications as confidential to this date. Pursuant to the federal subpoena served on the Executive Director, a request has been made for access to S&S Communications' documents, some of which have been afforded confidential treatment.

Looking at ARSD 20:10:01:42, "information qualifies as confidential information by showing that disclosure would result in material damage to its financial or competitive position, reveal a trade secret, or impair the public interest." It is Staff's position that the release of the S&S Communications' information being treated as confidential would not result in material financial or competitive damage to S&S since S&S's certificate of authority has been revoked and the company is out of business. It would not reveal a trade secret and it is in the public's best interest that the information be released.

WHEREFORE, Staff hereby respectfully requests the Commission to issue an ORDER permitting the release of information filed as confidential.

Dated at Pierre, South Dakota, this 31st day of January, 2005.



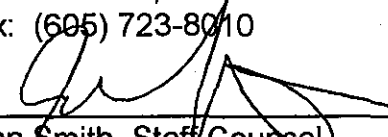
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CERTIFICATE OF SERVICE

I hereby certify that copies of Motion for Order Permitting Release of Information Filed as Confidential were served on the following by fax and by mailing the same to them by United States Post Office First Class Mail, postage thereon prepaid, at the addresses shown below on this the 31st day of January, 2005.

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