

Telecommunications Orders - Issued 1997

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

IN THE MATTER OF THE FILING BY) DAKOTA TELECOM, INC., DAKOTA) TELECOMMUNICATIONS SYSTEMS, INC.,) AND DAKOTA COOPERATIVE) TELECOMMUNICATIONS, INC., FOR) INTERCONNECTION WITH FORT RANDALL) TELEPHONE COMPANY)	ORDER GRANTING INTERVENTION; ORDER FINDING LETTER NOT A BONA FIDE REQUEST TC97-062
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On or about June 1, 1997, Dakota Telecom, Inc., Dakota Telecommunications Systems, Inc., and Dakota Cooperative Telecommunications, Inc. (collectively Dakota) sent a request for interconnection services to Fort Randall Telephone Company. Pursuant to the requirements of the Telecommunications Act of 1996, a party making a request of a rural telephone company is required to notify the appropriate state Commission. On June 3, 1997, the South Dakota Public Utilities Commission (Commission) received Dakota's notice of request for interconnection.

On June 5, 1997, the Commission electronically transmitted notice of the filing and the intervention deadline of June 20, 1997, to interested individuals and entities.

On June 19, 1997, the Commission received a request for intervention from the South Dakota Independent Telephone Coalition (SDITC). On July 8, 1997, the Commission received a Request for Declaratory Ruling and a discovery request from Fort Randall Telephone Company. In its Request for Declaratory Ruling, Fort Randall asked the Commission to find that Dakota's June 1, 1997, letter requesting interconnection was not a bona fide request as required by 47 U.S.C. § 251(f)(1).

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 49-13 and 49-31, the Telecommunications Act of 1996, and ARSD 20:10:01:15.02 and .03.

On July 15, 1997, a regularly scheduled meeting, the Commission considered the Petition to Intervene. The Commission found that the petition was timely filed and demonstrated good cause to grant intervention (Commissioner Schoenfelder, dissenting). The Commission also considered Fort Randall's Request for Declaratory Ruling and discovery request. After listening to arguments from the parties, the Commission deferred action on these requests.

A July 18, 1997, ad hoc meeting, the Commission found that Dakota's June 1, 1997, request

for interconnection from Fort Randall was not a bona fide request as required under 47 U.S.C. § 251(f)(1)(A) (Commissioner Schoenfelder, dissenting). The Commission found that the minimum requirement for a bona fide request is for the request to state under what subparts of sections 251(b) and/or 251(c) the request is being made. Dakota stated at Tuesday's meeting that it did not know if it was requesting interconnection pursuant to 47 U.S.C. § 251(b) or § 251(c) because it first needed to know if the Commission would require it to meet eligible telecommunications carrier (ETC) requirements pursuant to 47 U.S.C. § 253(f). The Commission concluded that since Dakota did not know if it is requesting interconnection pursuant to section 251(c), then Fort Randall is unable to show the Commission that it should be allowed to keep its exemption from section 251(c) requirements. The Commission also directed the Executive Director to set a procedural schedule for the purpose of determining whether Dakota will be required to meet ETC requirements before being permitted to provide service in exchanges owned by Fort Randall.

It is therefore

ORDERED, that SDITC shall be granted intervention in this matter; and it is

FURTHER ORDERED, that the Commission finds that Dakota's June 1, 1997, letter is not a bona fide request as required by section 251(f)(1).

Dated at Pierre, South Dakota, this 29th day of July, 1997.

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>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.</p> <p>By: _____</p> <p>Date: _____</p> <p style="text-align: center;">(OFFICIAL SEAL)</p>	<p>BY ORDER OF THE COMMISSION:</p> <p>_____</p> <p>JAMES A. BURG, Chairman</p> <p>_____</p> <p>PAM NELSON, Commissioner</p> <p>LASKA SCHOENFELDER, Commissioner</p> <p>Dissenting</p>
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