

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

IN THE MATTER OF THE APPLICATION FILED)	
BY DAKOTA COOPERATIVE)	
TELECOMMUNICATIONS, INC., DAKOTA)	ORDER DENYING REQUEST
TELECOM, INC., AND DAKOTA)	FOR LETTER TO THE FCC
TELECOMMUNICATIONS SYSTEMS, INC.)	
REQUESTING THE COMMISSION TO)	TC97-014
DETERMINE WHETHER IT OBJECTS TO A)	
WAIVER BY THE FCC OF THE DEFINITION OF)	
STUDY AREA)	

On February 10, 1997, the Public Utilities Commission (Commission) received an application from Dakota Cooperative Telecommunications, Inc., and its subsidiary companies, Dakota Telecom, Inc., and Dakota Telecommunications Systems, Inc., (collectively referred to as Dakota), requesting that the Commission determine whether it objects to a waiver by the Federal Communications Commission (FCC) of the definition of "Study Area" contained in Part 36 Appendix-Glossary of the FCC's rules to allow Dakota to expand its South Dakota study area boundaries to include the new local exchange facilities it is constructing in Viborg and Centerville. Dakota stated that it will provide service to consumers in the Centerville and Viborg exchanges through its subsidiaries, and has begun providing such services. Dakota's current study area completely surrounds the Viborg and Centerville exchanges. Dakota stated that it is building a new, state-of-the-art switching facility in Viborg, which is centrally located with respect to Dakota's service area. If the Commission does not object to such a waiver by the FCC, Dakota requested that the Commission provide Dakota with a letter to that effect. The Commission granted interventions to the South Dakota Independent Telephone Coalition, Inc. (SDITC) and Fort Randall Telephone Company (Fort Randall).

By Order dated April 7, 1997, the Commission established a briefing schedule in this docket. On April 14, 1997, initial briefs were received from SDITC, Fort Randall, and Dakota. On April 21, 1997, reply briefs were received from Fort Randall and Dakota.

At its May 2, 1997, meeting, the Commission unanimously voted to deny Dakota's request for a letter to the FCC stating it does not object to Dakota's study area waiver request. The Commission found that although Dakota was not asking for designation as an eligible telecommunications carrier for the exchanges in question at this time, a rural company's study area is currently considered to mean the same as its service area pursuant to 47 U.S.C. § 214(e)(5). A determination by the Commission that it does not object to Dakota being granted a study area waiver could presuppose a finding on the Commission's part that Dakota should be deemed an eligible telecommunications carrier for those exchanges. This finding cannot be made without first establishing that Dakota meets the requirements of 47 U.S.C. § 214(e). The Commission determined that Dakota's request is premature and cannot be granted. It is therefore

ORDERED that Dakota's request that the Commission write a letter stating that the Commission does not object to Dakota's study area waiver request to allow Dakota to include the new exchanges of Viborg and Centerville is denied.

Dated at Pierre, South Dakota, this 12th day of May, 1997.

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>Delaine Koels</u>
Date:	<u>5/13/97</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner