BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF OLS, INC. AND CERTAIN JOHN DOES)))	ORDER APPROVING AGREEMENT, DISMISSING MOTION AND CLOSING DOCKET
))	TC00-089

On June 6, 2000, the Staff (Staff) of the South Dakota Public Utilities Commission (Commission) filed a Motion to Assess Fines and Statutory Penalties against OLS, Inc. (OLS). Staff asked for the imposition of statutory fines and penalties, the recovery of costs and the revocation of OLS' certificate of authority should the Commission deem the acts of OLS sufficient to merit such action. On June 28, 2000, the Commission received a Response to Motion to Assess Fines and Statutory Penalties from OLS. A hearing in this matter was scheduled for August 29, 2001. By order dated August 23, 2001, the hearing was cancelled as Commission Staff informed the Commission that settlement was pending between Commission Staff and OLS.

On October 16, 2001, a Settlement Agreement (the Agreement) was filed with the Commission, said Agreement representing a compromise and settlement of this matter between OLS and Staff.

The Commission has jurisdiction in this matter by reason of Chapter 49-31, SDCL, generally and, SDCL 49-31-93, 49-31-94 and 49-31-96, in particular.

At its duly noticed October 23, 2001, meeting, the Commission considered whether to approve the Agreement. OLS appeared through its local counsel of record, Tim R. Shattuck. Commission Staff recommended its approval.

The Commission unanimously voted to approve the agreement. It is therefore

ORDERED, that the Commission approves the agreement; and it is

FURTHER ORDERED, that the terms and conditions of the Agreement shall be incorporated into this Order by reference and attached hereto, the same as if it was fully recited herein and shall as such be fully binding upon the parties to it; and it is

FURTHER ORDERED, that pursuant to the Agreement, the motion of Staff as described in this Order shall be dismissed with prejudice and the docket shall be closed.

Dated at Pierre, South Dakota, this 3/2t day of October, 2001.

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:
Date: //// 0/
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

AMES A. BURG, Chairman

Ama Mala 220

PAM NELSON, Commissioner

RECEIVED

OCT 1 9 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

	- •
SOUTH DAKOTA	State of the state
JULY DAKOIA	P' II
UTILITIES COMM	
	Al best

IN THE MATTER OF OLS, INC.	
AND CERTAIN JOHN DOES	

SETTLEMENT AGREEMENT

TC00-089

INTRODUCTION

- 1. This Settlement Agreement ("Agreement") is entered into between the South Dakota Public Utilities Commission Staff ("Staff") and OLS, Inc. ("OLS").
- 2. OLS is a Georgia corporation with its principal place of business at 1030 Cambridge Square, Suite E, Alpharetta, Georgia, 30201. OLS was granted a Certificate of Authority to Conduct Business as a Telecommunications Company with the State of South Dakota by the Commission on July 30, 1998, effective, July 28, 1998.
- 3. Beginning in early November 1999, Staff was contacted by 641 South Dakota consumers making informal complaints related to OLS. Prior to this time, only three informal complaints had been logged against OLS in South Dakota. Also in early November 1999, a local television broadcast falsely reported that OLS was not authorized to conduct business in South Dakota.
- 4. Staff pursued 46 of the consumer complaints formally, and all were promptly settled by OLS without any admission or determination of liability. The other complaints were disposed of informally by mutual agreement of OLS and the consumer. On June 6, 2000, Staff filed a Motion to Assess Fines and Statutory Penalties against OLS. None of the instances cited in Staff's Motion involved actions undertaken by OLS

after the November 1999 broadcast.

- 5. OLS, by entering into this Agreement, makes no admission of liability as to any alleged wrongdoing and expressly denies any such wrongdoing.
- 6. OLS has consented to the entry of the Agreement without adjudication of any issues of fact or law solely in the interest of avoiding the expense, time, and uncertainty of formal proceedings.

FINAL SETTLEMENT

- 7. OLS is a small, family-owned business that has been in the business of providing long distance services for only three years.
- 8. OLS has vigorously pursued and succeeded in settling all disputes cited in Staff's Motion to the satisfaction of all parties involved. The majority of these nearly 83% were settled before initiation of Staff's Motion and all but a few were resolved by late February 2000.
 - 9. OLS has incurred considerable expenses in settling these matters.
- 10. Since the initiation of Staff's Motion, OLS has worked with Staff in good faith.
- 11. OLS' resolution of all complaints and its interaction with Staff demonstrate its good faith efforts and substantial compliance with all applicable Commission rules.
- 12. OLS no longer markets to consumers in South Dakota and does not intend to market in South Dakota in the future, eliminating any potential for a recurrence of the

events alleged here. In addition, to further protect itself from similar risks in the future,
OLS has transitioned to "in-house" marketing for all active territories and has replaced
LEC billing with direct billing.

- 13. OLS shall make a voluntary payment in satisfaction of SDCL 49-31-94 to the State of South Dakota in the amount of Twenty Thousand Dollars (\$20,000.00) and pay costs pursuant to SDCL 49-31-96 to the South Dakota Public Utilities Commission in the sum of Six Thousand Dollars (\$6,000.00) as reimbursement for costs associated with the proceedings specified in Docket TC00-089. The parties understand and agree that these voluntary payment are not an admission of liability and are made in lieu of any fines, penalties, or actions that might be authorized under SDCL 49-31-38, 49-31-38.1, 49-31-93, and 49-31-95, or any other statutes or rules under which the South Dakota Public Utilities Commission is acting. The parties further agree that such payment is fair and reasonable, in the best interests of all parties involved, and an appropriate resolution of TC00-089.
- 14. The voluntary payment shall be made in three installments in the following manner: (1) a \$6,000 payment upon Commission approval of this Agreement; (2) a \$10,000 payment 60 days thereafter; and (3) a final \$10,000 payment 60 days thereafter.
- 15. The parties understand and agree that this Agreement addresses and encompasses the following specific Docket Numbers, each cited in Staff's Motion: CT99-056, CT99-060, CT99-061, CT99-062, CT99-063, CT99-066, CT99-067, CT99-068,

CT99-069, CT99-070, CT99-073, CT99-074, CT99-075, CT99-077, CT99-078, CT99-079, CT99-080, CT99-082, CT99-085, CT99-086, CT99-089, CT00-001, CT00-003, CT00-004, CT00-005, CT00-006, CT00-009, CT00-10, CT00-011, CT00-013, CT00-015, CT00-016, CT00-018, CT00-027, CT00-028, CT00-032, CT00-033, CT00-034, CT00-042, CT00-045, CT00-046, CT00-047, CT00-053, CT00-056, CT00-062, CT00-067. The parties further understand and agree that this Agreement encompasses any similar matters involving OLS occurring prior to the date of this Agreement.

16. Undersigned Staff agrees to advise the Public Utilities Commission of this Agreement and to request the Commission to enter an Order dismissing with prejudice Staff's Motion. Staff further agrees not to bring any other motion or request for proceedings relating to the matters referenced in Staff's Motion, intending this to be a full, final, and complete resolution.

OTHER PROVISIONS

- adopted by the South Dakota Public Utilities Commission. If the Commission does not approve this Agreement, it shall have no force or effect. If this Agreement is adopted by the Commission, with modification, the parties must consent to the modification in writing within 30 days of the Commission's order proposing modification. If the modifications are not acceptable to one of the Parties, then this Agreement is void.
 - 18. If any portion, provision, or part of this Agreement is held to be invalid,

unenforceable, or void for any reason whatsoever, that portion shall be severed from the remainder, and shall not affect the validity or enforceability of the remaining provisions, portions, or parts.

19. The undersigned acknowledges that they are duly authorized to execute this Agreement on behalf of their respective principals, and that such execution is made within the course and scope of their respective agency and/or employment.

DATE: 10-17-01

OLS INC

Gary Rubanks, President

STAFF OF SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

DATE:/0-/9-0/

Karen E. Cremer

Staff Attorney