

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

<b>IN THE MATTER OF THE PETITION OF )</b>	<b>ORDER FOR AND NOTICE</b>
<b>BLACK HILLS FIBERCOM, L.L.C. FOR A )</b>	<b>OF HEARING</b>
<b>DECLARATORY RULING REGARDING ARSD )</b>	
<b>20:10:32:11 AND ALTERNATIVE PETITION )</b>	<b>TC02-084</b>
<b>FOR APPROVAL OF AN AMENDMENT TO )</b>	
<b>BLACK HILLS FIBERCOM, L.L.C.'S LOCAL )</b>	
<b>CALLING AREA PURSUANT TO ARSD )</b>	
<b>20:10:32:11 )</b>	

On July 1, 2002, the Public Utilities Commission (Commission) received from Black Hills FiberCom, L.L.C. (FiberCom) a Petition for a Declaratory Ruling Regarding Application of ARSD 20:10:32:11 (Petition) and Alternative Petition for Approval of an Amendment to Black Hills FiberCom L.L.C.'s Local Calling Exchange Area Pursuant to ARSD 20:10:32:11 (Alternative Petition). In its Petition, FiberCom requests that the Commission find that FiberCom does not need to obtain Commission approval prior to FiberCom charging its customers for utilizing non-network ISP services through Rapid City telephone numbers attached to PRIs purchased from Qwest. If the Commission determines that FiberCom must obtain approval, then FiberCom requests in its Alternative Petition that the Commission approve the proposed amendment to FiberCom's local calling plan.

On July 3, 2002, the Commission electronically transmitted notice of the filing and the intervention deadline of July 11, 2002, to interested individuals and entities. On July 11, 2002, the Commission received a Petition to Intervene from the South Dakota Telecommunications Association (SDTA). At its July 23, 2002, meeting, the Commission granted intervention to SDTA.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-76, 49-31-77 , 49-31-81, and 49-31-85, and ARSD 20:10:01:34 and 20:10:32:11.

A hearing shall be held on January 24, 2003, beginning at 9:00 A.M., in the Governor's Inn Meeting Room, 700 West Sioux, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether the proposed change to FiberCom's local calling area as set forth on pages 9 and 10 of the Alternative Petition should be approved pursuant to ARSD 20:10:32:11.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an

attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether the proposed change to FiberCom's local calling area as set forth on pages 9 and 10 of the Alternative Petition should be approved pursuant to ARSD 20:10:32:11. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that a hearing shall be held at the time and place specified above on the issue of whether the proposed change to FiberCom's local calling area as set forth on pages 9 and 10 of the Alternative Petition should be approved pursuant to ARSD 20:10:32:11.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 13<sup>th</sup> day of January, 2003.

<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>Delaine Kalbo</u>
Date:	<u>1/13/03</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg  
JAMES A. BURG, Chairman

Gary Hanson  
GARY HANSON, Commissioner

Robert K. Sahr  
ROBERT K. SAHR, Commissioner