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South Dakota Public Utilities Commission Meeting
November 5, 2013, at 9:30 A.M. CST
Room 413, Capitol Building
Pierre, South Dakota

MINUTES OF THE COMMISSION MEETING

Chairman Gary Hanson called the meeting to order. Present were: Commissioners: Chris Nelson and Kristie Fiegen; Commission Counsel: John Smith and Rolayne Wiest; Commission Advisor: Greg Rislov; Staff Attorneys: Kristen Edwards and Karen Cremer; Staff Analysts: Brittany Mehlhaff, David Henry, Jason Simmons, Boice Hillmer, Eric Paulson, Robin Meyerink, Darren Kearney, Brian Rounds, and Patrick Steffensen; Consumer Affairs Supervisor: Deb Gregg; Finance Manager, Cindy Kemnitz; and Staff: Sherry Dickerson

Also present were:

Rich Coit, South Dakota Telecommunications Association; Jason Grenier, Kim Pederson, Jon Fabre, Brenda Sandahl, and Kevin Disse, Otter Tail Power Company; Margo Northrup, Riter, Rogers, Wattier & Northrup, LLP, representing TrioTel Communications, Inc., City of Faith Municipal Telephone Company, Western Telephone Company, Golden West Telecommunications Cooperative, Inc., and Valley Telecommunications Cooperative Association, Inc.; and Bob Mercer, Reporter

Joining the meeting by telephone were:

Ryan Taylor, Cutler & Donahoe LLP, representing Alliance Communications Cooperative Inc.; Jason Topp, Qwest Corporation dba CenturyLink QC; Phil Schenkenberg, Briggs and Morgan, P.A., representing Sprint Communications Company, LP; Tom Welk, Boyce, Greenfield, Pashby & Welk, LLP, representing Montana-Dakota Utilities Co. and Otter Tail Power Company; Pat Elroy, Northeast Nebraska Telephone Company; Debbie Brown, City of Faith Municipal Telephone Company; Brian Roth, TrioTel Communications, Inc.; Marlene Bennett, Consortia Consulting, representing TrioTel Communications, Inc., Valley Telecommunications Cooperative Association, Inc., and City of Faith Municipal Telephone Company; Denny Law and Jill Reinert, Golden West Telecommunications Cooperative, Inc.; Steve Meyer and James Adkins, City of Brookings Municipal Telephone; Mary Sisak, Blooston, Mordkofsky, Dickens, Duffy & Pendergast, representing City of Brookings Municipal Telephone; Tracy Bandmer, Interstate Telecommunications Cooperative, Inc.; Bob Pesall, Pesall Law Firm, representing Gerald Pesall; Jeff Larson, Larson & Nipe, representing Santel Communications Cooperative; Kris Radermacher, Farmers Mutual Telephone Company; Janelle Jessen, Western Telephone Company; and Scott Swier, Swier Law Firm, Prof. LLC

Administration

1. Approval of the Minutes of the Commission Meetings Held on October 9, 2013 and October 22, 2013 (Staff: Joy Lashley)

Commissioner Nelson moved to approve the Minutes of the Commission Meetings held on October 9, 2013 and October 22, 2013. Motion carried 3-0.

Consumer Reports

1. Status Report on Consumer Utility Inquiries and Complaints Received by the Commission (Consumer Affairs: Deb Gregg)

The Commission received a total of 91 contacts since the last report was prepared for the October 22, 2013 Commission meeting.

17 of the contacts involved telecommunication services, 27 of the contacts involved electrical services, 4 of the contacts involved natural gas service, 1 contact involved gas and electric service,

2 contacts involved cell phone service, 16 contacts were related to the Do Not Call Registry, and 24 contacts were related to issues not regulated by the PUC.

1,594 of the 1,636 complaints received in 2013 have been resolved.

Electric

1. EL13-016 In the Matter of the Filing by Otter Tail Power Company Regarding its Proposed South Dakota Energy Efficiency Plan for 2014-2015 (Staff Analysts: Brian Rounds, Darren Kearney; Staff Attorney: Karen Cremer)

Ms. Kim Pederson, Otter Tail Power Company, requested that the Commission approve its proposed South Dakota Energy Efficiency Plan for 2014-2015. Ms. Pederson stated that the proposed plan included projects for all customer classes and major end uses that have the greatest potential for energy savings. Mr. Brian Rounds, staff analyst, recommended that the Commission approve Otter Tail's request.

Commissioner Fiegen moved to approve Otter Tail Power Company's 2014-2015 Energy Efficiency Plan. Motion carried 3-0.

2. EL13-028 In the Matter of the Application of Montana-Dakota Utilities Co. and Otter Tail Power Company for a Permit to Construct the Big Stone South to Ellendale 345 kV Transmission Line (Staff Analysts: Brian Rounds, Darren Kearney; Staff Attorney: Karen Cremer)

Mr. Bob Pesall, representing Gerald Pesall, requested that the Commission grant intervention. Mr. Tom Welk, Boyce, Greenfield, Pashby & Welk, LLP, representing Montana-Dakota Utilities Co. and Otter Tail Power Company had no objection. Ms. Karen Cremer, staff attorney, recommended that the Commission grant Gerald Pesall's application for party status.

Commissioner Nelson moved to grant Gerald Pesall's application for party status and intervention. Motion carried 3-0.

3. EL13-031 In the Matter of the Request for Approval of an Electric Service Territory Boundary Agreement between Dakota Energy Cooperative, Inc. and NorthWestern Corporation dba NorthWestern Energy (Staff Analyst: David Henry; Staff Attorney: Kristen Edwards)

Mr. David Henry, staff analyst, recommended that the Commission grant approval to the Electric Service Territory Boundary Agreement between Dakota Energy Cooperative, Inc. and NorthWestern Corporation dba NorthWestern Energy.

Commissioner Hanson moved to approve the proposed electric service territory boundary agreement. Motion carried 3-0.

Telecommunications

1. In the Matter of the Failure of Certain Telecommunications Companies to Timely Pay their Post-Petition Gross Receipts Tax and Maintain Good Standing with the Secretary of State and Department of Revenue (Finance Manager: Cindy Kemnitz)

Ms. Cindy Kemnitz, Finance Manager, stated that the following companies have failed to timely pay their post-bankruptcy petition gross receipts tax as required by SDCL 49-1A and have failed to maintain in good standing their registrations with the Secretary of State and sales tax permits with the Department of Revenue:

@link Networks, Inc.
Alticom, Inc.

Caribbean Telephone and Telegraph, Inc.
J D Services, Inc. ~DBA: American Freedom Network
NET-tel Corp
Parcel Consultants dba Minimum Rate Pricing, Inc.
Pathnet, Inc.
Starlink Communications, LLC
Total National Telecommunications, Inc. ~DBA: Total World Teleco
Univance Telecommunications, Inc.

The following companies have failed to timely pay their gross receipts tax as required by SDCL 49-1A:

1 800 Collect, Inc.
Broadvox-CLEC, LLC
Covista, Inc.
Go Solo Technologies, Inc.
Hawk Relay, LLC
MCC Telephony of the Midwest, LLC
NET TALK.COM, INC.
Yestel USA, Inc.

Ms. Kemnitz requested, however, that 1 800 Collect, Inc. and MCC Telephony of the Midwest, LLC be removed from the list as both companies have paid their gross receipts tax and that the other companies be issued an Order to Show Cause.

Commissioner Nelson moved to issue an Order to Show Cause as to why the Commission should not revoke the Certificates of Authority of each of the first set of companies for failure to pay the requisite post-bankruptcy petition gross receipts taxes and maintain in good standing their Secretary of State corporate registrations and sales tax permits from the Department of Revenue and fine, and/or suspend or revoke the Certificates of Authority of each of the second set of companies for failure to timely pay the requisite gross receipts tax except for 1 800 Collect, Inc. and MCC Telephony of the Midwest, LLC. Motion carried 3-0.

2. TC10-026 In the Matter of a Complaint Filed by Sprint Communications Company, LP Against Native American Telecom, LLC Regarding Telecommunications Services (Staff Analyst: Patrick Steffensen; Staff Attorney: Karen Cremer)

A lengthy discussion took place regarding docket TC10-026. An audio of the discussion can be found on the PUC website under Commission Actions, Commission Meeting Archives, 2013, November 5, 2013, recording located at:
<http://puc.sd.gov/commission/media/2013/puc11052013.mp3>

Commissioner Nelson moved to grant the Stipulation for Dismissal Without Prejudice. Motion carried 3-0.

3. In the Matter of the Request for Certification Regarding the Use of Federal Universal Service Support in Dockets TC13-057, TC13-059, TC13-064, TC13-067, TC13-071, TC13-080, TC13-089, TC13-094, TC13-099, TC13-100 and TC13-102.

TC13-057 In the Matter of the Filing by Santel Communications Cooperative for Certification regarding its Use of Federal Universal Service Support (Staff Analyst: Eric Paulson; Staff Attorney: Kristen Edwards)

Mr. Eric Paulson, staff analyst, recommended that the Commission issue certification to the FCC and USAC indicating that Santel Communications Cooperative is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to the company.

TC13-059 In the Matter of the Filing by TrioTel Communications Inc. for Certification regarding its Use of Federal Universal Service Support (Staff Analyst: Eric Paulson; Staff Attorney: Kristen Edwards)

Mr. Eric Paulson, staff analyst, recommended that the Commission issue a certification to the FCC and USAC indicating TrioTel Communications Inc. is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to the company.

TC13-064 In the Matter of the Request of Farmers Mutual Telephone Company for Certification Regarding its Use of Federal Universal Service Support (Staff Analyst: Robin Meyerink; Staff Attorney: Kristen Edwards)

Ms. Robin Meyerink, staff analyst, recommended that the Commission to issue a certification to the FCC and USAC indicating Farmers Mutual Telephone Company is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to the company.

TC13-067 In the Matter of the Request of Interstate Telecommunications Cooperative, Inc. fka Stockholm-Strandburg Telephone Company for Certification Regarding its Use of Federal Universal Service Support (Staff Analyst: Darren Kearney; Staff Attorney: Karen Cremer)

Mr. Darren Kearney, staff analyst, recommended that the Commission issue a certification to the FCC and USAC indicating Interstate Telecommunications Cooperative, Inc. (fka Stockholm-Strandburg) is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to the company.

TC13-071 In the Matter of the Request of Golden West Telecommunications Cooperative, Inc., Study Area Codes: 391640, 391659, 391667, 391677, 391684 and 391686 for Certification Regarding its Use of Federal Universal Service Support (Staff Analyst: Robin Meyerink; Staff Attorney: Karen Cremer)

Ms. Robin Meyerink, staff analyst, recommended that the Commission issue a certification to the FCC and USAC indicating Golden West Telecommunications Cooperative, Inc. is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to the company.

TC13-080 In the Matter of the Filing by Alliance Communications Cooperative Inc. for Certification regarding its Use of Federal Universal Service Support (Staff Analyst: Eric Paulson; Staff Attorney: Kristen Edwards)

Mr. Eric Paulson, staff analyst, recommended that the Commission issue a certification to the FCC and USAC indicating Alliance Communications Cooperative Inc. is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to the company.

TC13-089 In the Matter of the Filing by Valley Telecommunications Cooperative Association, Inc. for Certification regarding its Use of Federal Universal Service Support (Staff Analyst: Eric Paulson; Staff Attorney: Kristen Edwards)

Mr. Eric Paulson, staff analyst, recommended that the Commission issue a certification to the FCC and USAC indicating Valley Telecommunications Cooperative Association, Inc. is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to the company.

TC13-094 In the Matter of the Filing by City of Faith Municipal Telephone Company for Certification regarding its Use of Federal Universal Service Support (Staff Analyst: Eric Paulson; Staff Attorney: Karen Cremer)

Mr. Eric Paulson, staff analyst, recommended that the Commission issue a certification to the FCC and USAC indicating the City of Faith Municipal Telephone Company is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to the company.

TC13-099 In the Matter of the Filing by Long Lines Wireless LLC, for Certification regarding its Use of Federal Universal Service Support (Staff Analyst: Eric Paulson; Staff Attorney: Kristen Edwards)

Mr. Eric Paulson, staff analyst, recommended that the Commission issue a certification to the FCC and USAC indicating Long Lines Wireless LLC is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to the company.

TC13-100 In the Matter of the Request of Western Telephone Company for Certification Regarding its Use of Federal Universal Service Support (Staff Analyst: Robin Meyerink; Staff Attorney: Kristen Edwards)

Ms. Robin Meyerink, staff analyst, recommended that the Commission issue a certification to the FCC and USAC indicating Western Telephone Company is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to the company.

TC13-102 In the Matter of the Request of City of Brookings Municipal Telephone for Certification Regarding its Use of Federal Universal Service Support (Staff Analyst: Robin Meyerink; Staff Attorney: Kristen Edwards)

Ms. Robin Meyerink, staff analyst, recommended that the Commission issue a certification to the FCC and USAC indicating the City of Brookings Municipal Telephone is in compliance with 47 U.S.C. Section 254(e) and should receive all federal universal service support determined for distribution to the company.

Commissioner Fiegen moved to provide a certification to the Federal Communications Commission and to the Universal Service Administration Company regarding the use of Federal Universal Service Support in each of the above dockets. Motion carried 3-0.

4. TC13-091 In the Matter of the Filing by Northeast Nebraska Telephone Company for Certification regarding its Use of Federal Universal Service Support (Staff Analyst: Eric Paulson; Staff Attorney: Kristen Edwards)

Mr. Eric Paulson, staff analyst, recommended that the Commission grant the waiver of the Commission's ETC filing requirements pursuant to ARSD 20:10:32:56 and certify Northeast Nebraska Telephone company.

Commissioner Hanson moved to grant the waiver and certify Northeast Nebraska Telephone Company. Motion carried 3-0.

5. TC13-112 In the Matter of the Filing by Teleport Communications America, LLC for Approval of its Access Services Tariff (Staff Analyst: Eric Paulson; Staff Attorney: Karen Cremer)

Mr. Eric Paulson, staff analyst, recommended that the Commission approve Teleport Communications America, LLC's (TCAL) initial Access Services Tariff effective November 1, 2013.

Commissioner Nelson moved to approve TCAL's initial Access Services Tariff. Motion carried 3-0.

6. TC13-113 In the Matter of the Approval of an ICC VoIP Amendment to an Interconnection Agreement between Qwest Corporation dba CenturyLink QC and Level 3

Communications, LLC (Staff Attorney: Karen Cremer)

Mr. Jason Topp, Qwest Corporation dba CenturyLink QC, requested that the Commission approve the amendment to the interconnection agreement between CenturyLink QC and Level 3 Communications, LLC. Ms. Karen Cremer, staff attorney, stated that the amendment was properly filed, properly executed, and does not appear to contain discriminatory provisions. No comments were filed. Ms. Cremer recommended that the Commission approve the amendment to the agreement.

Commissioner Hanson moved to approve the amendment to the interconnection agreement. Motion carried 3-0.

7. TC13-114 In the Matter of the Approval of a Relative Use Factor Amendment to an Interconnection Agreement between Qwest Corporation dba CenturyLink QC and Level 3 Communications, LLC (Staff Attorney: Karen Cremer)

Mr. Jason Topp, Qwest Corporation dba CenturyLink QC, requested that the Commission approve the amendment to the interconnection agreement between CenturyLink QC and Level 3 Communications, LLC. Ms. Karen Cremer, staff attorney, stated that the amendment was properly filed, properly executed, and does not appear to contain discriminatory provisions. No comments were filed. Ms. Cremer recommended that the Commission grant approval of the amendment to the interconnection agreement.

Commissioner Fiegen moved to approve the amendment to the interconnection agreement. Motion carried 3-0.

There being no further business, at the hour of 10:21 a.m. the South Dakota Public Utilities Commission meeting adjourned.

/S/Joy Lashley

Joy Lashley

Administrative Assistant

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November 5, 2013