

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED

MAR 26 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE REQUEST)
BY DAKOTA COOPERATIVE)
TELECOMMUNICATIONS, INC. AND)
ITS SUBSIDIARIES FOR A)
DETERMINATION OF ELIGIBLE)
TELECOMMUNICATIONS CARRIER)
STATUS PURSUANT TO 47 USC 214)

Docket TC97-

FAX Received MAR 25 1997

COME NOW DAKOTA COOPERATIVE TELECOMMUNICATIONS, INC.,
DAKOTA TELECOM, INC. AND DAKOTA TELECOMMUNICATIONS SYSTEMS,
INC. (collectively, "Dakota") and Petition the South Dakota Public Utilities Commission
("the Commission") as follows:

1. By this filing, Dakota is requesting that the Commission take the steps necessary to
implement the Regulations relating to the Universal Service Fund which the Federal
Communications Commission ("the FCC") must have ready by May 8, 1997.

Specifically, Dakota is requesting that it be designated as an Eligible

Telecommunications Company, as that term is used in 47 USC 214 (e) (1), for the
following exchanges:

Alsen (253), Beresford Rural (957), Chancellor (647), Davis (238), Flyger (327), Gayville
(267), Hurley (238), Irene (263), Lennox (647), Monroe (297), Parker (297), Volin (267),
Wakonda (267) and Worthing (372).

2. Dakota offers services throughout these territories and will, once final rules are
adopted by the FCC, continue to offer services that are supported by Federal universal

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think so.

service support mechanisms and as supplemented by State regulations under section 254 (f) of the Telecommunications Act, as amended. ("the Federal Act").

3. To provide these services in these exchanges, Dakota will use its own facilities.

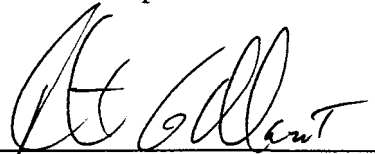
Dakota has previously, and will continue to advertise the availability of its services in media of general distribution. Prior to this filing, Dakota has not advertised its prices as part of its marketing, but makes those rates known upon inquiry.

4. Dakota further requests that the Commission establish a "service area" as that term is defined in 47 USC 214 (e) (5) for Dakota. Due to the compact and contiguous nature of Dakota's traditional service area, Dakota requests that the Commission designate Dakota's present study area as its service area.

WHEREFORE, Dakota respectfully requests that this Commission designate it as an Eligible Telecommunications Carrier as set forth above.

Dated this 25th day of March, 1997.

Dakota Cooperative Telecommunications, Inc.



By: Robert G. Marmet
Its Attorney
PO Box 66
Irene, SD 57037
(605) 263-3301 Phone
(605) 263-3995 Fax

APR 09 1997

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

IN THE MATTER OF THE REQUEST OF) DOCKET TC97-030
 DAKOTA COOPERATIVE)
 TELECOMMUNICATIONS, DAKOTA TELECOM,)
 AND DAKOTA TELECOMMUNICATIONS,)
 SYSTEMS, INC. FOR ETC DESIGNATION)

**AT&T COMMUNICATIONS OF THE MIDWEST, INC.'S
 PETITION TO INTERVENE**

AT&T Communications of the Midwest, Inc. ("AT&T"), by and through its attorneys, requests, pursuant to ARSD 20:10:01:15.02, that it be permitted to intervene and be granted status as a party in the above matter. In support of its petition to intervene, AT&T states as follows:

1. Dakota Cooperative Telecommunications, Inc., Dakota Telecom, Inc. and Dakota Telecommunications Systems, Inc., hereinafter collectively referred to as ("Dakota") have filed with the Commission its request for implementation of Regulations relating to the Universal Service Fund and a request for designation as an Eligible Telecommunications Company ("ETC") for certain named exchanges.
2. AT&T is a telecommunications company certified by this Commission to do business in the State of South Dakota, has been certified by the Commission to provide long distance and local exchange service.
3. AT&T will have rights and obligations under any Universal Service Fund established in South Dakota. The filing by Dakota may substantially affect AT&T's rights and obligations under any Universal Service Fund.
4. AT&T has a significant interest in this docket. It is important for AT&T to participate in the discussion of Universal Service issues, the significance of which will extend beyond this

docket.

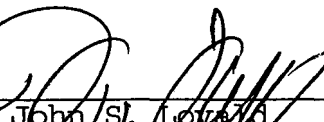
WHEREFORE, AT&T respectfully requests that this Commission grant AT&T's petition to intervene and grant AT&T status as a party to this proceeding.

DATED April 9, 1997

Respectfully submitted,

AT&T Communications of the Midwest,
Inc.

By



John S. Lovald
Olinger, Lovald, Robbennolt &
McCahren, P.C.
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Pierre, SD 57501
(605) 224-8851

Marie-Arias Chapleau
Richard S. Wolters
AT&T Law Department
1875 Lawrence St., Room 1575
Denver, Colorado 80202
(303) 298-6741

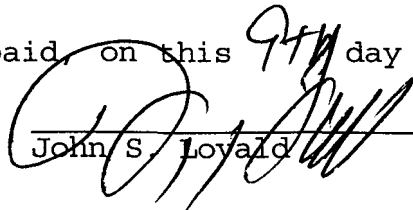
Glenn E. Solomon
Sidley & Austin
555 W. 5th Street, 40th Floor
Los Angeles, CA 90013-2007
(213) 896-6611

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served a true and correct copy of AT&T COMMUNICATIONS OF THE MIDWEST, INC.'S PETITION TO INTERVENE upon the following:

Robert Marmet
Attorney at Law
DCT Box 66
Irene, SD 57037

by first class mail, postage prepaid, on this 9th day of April, 1997.



John S. Lovald

RECEIVED
MAY 29 1997
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

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

IN THE MATTER OF THE REQUEST)
BY DAKOTA COOPERATIVE) Docket TC97-030
TELECOMMUNICATIONS, INC.)
FOR A DETERMINATION OF) AMENDED PETITION
ELIGIBLE TELECOMMUNICATIONS)
CARRIER STATUS PURSUANT TO)
47 USC 214)

COME NOW DAKOTA COOPERATIVE TELECOMMUNICATIONS, INC.,

("Dakota") and Petition the South Dakota Public Utilities Commission ("the Commission") as follows:

1. By this filing, Dakota is requesting that the Commission take the steps necessary to implement the Regulations relating to the Universal Service Fund which the Federal Communications Commission ("the FCC") must have ready by May 8, 1997.

Specifically, Dakota is requesting that it be designated as an Eligible Telecommunications Company, as that term is used in 47 USC 214 (e) (1), for the following exchanges:

Alsen (253), Beresford Rural (957), Chancellor (647), Davis (238), Flyger (327), Gayville (267), Hurley (238), Irene (263), Lennox (647), Monroe (297), Parker (297), Volin (267), Wakonda (267) and Worthing (372).

2. Dakota offers services throughout these territories and will, once final rules are adopted by the FCC, continue to offer services that are supported by Federal universal service support mechanisms and as supplemented by State regulations under section 254 (f) of the Telecommunications Act, as amended. ("the Federal Act").

3. To provide these services in these exchanges, Dakota will use its own facilities.

Dakota has previously, and will continue to advertise the availability of its services in media of general distribution. Prior to this filing, Dakota has not advertised its prices as part of its marketing, but makes those rates known upon inquiry.

4. Dakota further requests that the Commission establish a "service area" as that term is defined in 47 USC 214 (e) (5) for Dakota. Due to the compact and contiguous nature of Dakota's traditional service area, Dakota requests that the Commission designate Dakota's present study area as its service area.

WHEREFORE, Dakota respectfully requests that this Commission designate it as an Eligible Telecommunications Carrier as set forth above.

Dated this 27th day of May, 1997.

Dakota Cooperative Telecommunications, Inc.



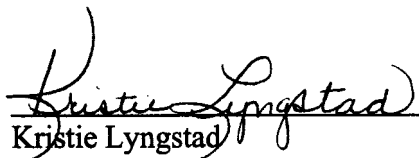
By: Robert G. Marmet
Its Attorney
PO Box 66
Irene, SD 57037
(605) 263-3301 Phone
(605) 263-3995 Fax

CERTIFICATE OF SERVICE

This is to certify that on this 27th of May, 1997, a copy of the foregoing AMENDED APPLICATION FOR DETERMINATION was served, via United States first class mail, postage prepaid, on the parties listed below:

John S. Lovald
Attorney for AT&T
117 Capitol, PO Box 66
Pierre, South Dakota 57501

Dated this 27th day of May, 1997.



Kristie Lyngstad

*Amended Application for Determination of
Eligible Telecommunication Carrier
By Dakota Cooperative Telecommunications, Inc.
May 27, 1997*

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

IN THE MATTER OF THE REQUEST BY)
D A K O T A C O O P E R A T I V E)
TELECOMMUNICATIONS, INC. AND ITS)
SUBSIDIARIES FOR A DETERMINATION OF)
ELIGIBLE TELECOMMUNICATIONS CARRIER)
STATUS PURSUANT TO 47 U.S.C. § 214)

**ORDER GRANTING
INTERVENTION**

TC97-030

On March 25, 1997, Dakota Cooperative Telecommunications, Inc., Dakota Telecom, Inc., and Dakota Telecommunications Systems, Inc. (Dakota) filed a request that the South Dakota Public Utilities Commission (Commission) take steps necessary to implement the regulations relating to the universal service fund and that it be designated as an eligible telecommunications company as that term is used in 47 U.S.C. § 214 for certain exchanges specified in its petition.

On March 27, 1997, the Commission electronically transmitted notice of the filing and the intervention deadline of April 11, 1997, to interested individuals and entities. On April 9, 1997, the Commission received a Petition to Intervene from AT&T Communications of the Midwest, Inc. (AT&T).

On April 28, 1997, at its regularly scheduled meeting, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31 and ARSD Chapter 20:10:01. The Commission granted AT&T's Petition to Intervene. Therefore it is

ORDERED that AT&T's Petition to Intervene is granted.

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

CERTIFICATE OF SERVICE	
<small>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.</small>	
By:	<u><i>Debra Koops</i></u>
Date:	<u>5/13/97</u>
<small>(OFFICIAL SEAL)</small>	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAY NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

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THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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)
IN THE MATTER OF THE REQUEST OF
DAKOTA COOPERATIVE)
TELECOMMUNICATIONS, INC. FOR A)
DETERMINATION OF ELIGIBLE)
TELECOMMUNICATIONS CARRIER STATUS,)
PURSUANT TO 47 U.S.C. SECTION 214)

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

TC97-030

HEARD BEFORE THE PUBLIC UTILITIES COMMISSION

PROCEEDINGS: July 30, 1997
10:00 A.M.
Room 412, Capitol Building
Pierre, South Dakota

PUC COMMISSION: Jim Burg, Chairman
Laska Schoenfelder, Commissioner
Pam Nelson, Commissioner

COMMISSION STAFF
PRESENT: Rolayne Ailts Wiest
Camron Hoseck
Harlan Best
Charlie Bolle

Reported by: Lori J. Grode, RMR

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A P P E A R A N C E S

For DTG: Robert G. Marmet
P.O. Box 269
Centerville, SD 57014

I N D E X

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P R O C E E D I N G S

1
2 CHAIRMAN BURG: I think we will get the
3 meeting started. This is in TC97-030. I'll begin the
4 hearing for this docket In the Matter of the Request of
5 the Dakota Cooperative Telecommunications,
6 Incorporated, for the Determination of Eligible
7 Telecommunications Carrier Status Pursuant to 47 U.S.C.
8 Section 214.

9 The time is approximately 10:00. The date is
10 July 30, 1997; and the location of the hearing is Room
11 412 of the Capitol Building here in Pierre, South
12 Dakota.

13 I am Jim Burg, Commission Chairman.
14 Commissioners Laska Schoenfelder and Pam Nelson are
15 also present. I'm presiding over this hearing. The
16 hearing was noticed pursuant to the Commission's Order
17 for the Notice of Hearing and the Procedural Schedule
18 issued on July 8th, 1997.

19 The issue at this hearing is whether the
20 Commission shall approve Dakota's request that it be
21 designated as an eligible telecommunications company as
22 that term is used in 47 U.S.C. Section 214.

23 All parties have the right to be present and
24 to be represented by an attorney. All persons so
25 testifying will be sworn in and subject to

1 cross-examination by the parties. The Commission's
2 final decision may be appealed by the parties to the
3 State Circuit Court and the State Supreme Court.

4 Rolayne Wiest will act as Commission
5 Counsel. She may provide recommended rulings on
6 procedural and evidentiary matters. The Commission may
7 overrule its counsel's preliminary rulings throughout
8 the hearing. If not overruled, the preliminary rulings
9 will become final rulings.

10 Okay. I'll turn it over to Rolayne then to
11 conduct the hearing.

12 MS. WIEST: I'll take appearances of the
13 parties. Who appears on behalf of Dakota Cooperative?

14 MR. MARMET: Robert G. Marmet.

15 MS. WIEST: And staff?

16 MR. HOSECK: Camron Hoseck on behalf of
17 staff.

18 MS. WIEST: Do any of the parties have any
19 opening statements?

20 MR. MARMET: Yes, I'd like to make an opening
21 statement. Do you want me to make it from here or
22 here?

23 Initially, I want to note a name change.
24 Dakota Cooperative no longer exists. We have sent a
25 letter to the Public Utilities Commission. But as of

1 the 21st of June, our membership voted to change its
2 form of operation -- excuse me, July 21st, I'm
3 corrected. We proposed to the membership that we
4 convert from a cooperative corporation into a public
5 corporation. That vote was approved by the
6 membership. And so the new name of the co-op is Dakota
7 Telecommunications Group. For ease of application,
8 we'll just call ourselves Dakota or Dakota
9 Telecommunications.

10 But with that amendment to the application
11 offered, I go on to other preliminary matters.

12 MS. WIEST: Go ahead.

13 MR. MARMET: I want to thank you, the
14 Commission, for the opportunity to be the first company
15 to apply to be designated as an eligible
16 telecommunications carrier. I understand that this
17 proceeding is something that the Commission is not
18 entirely familiar with how they are going to proceed
19 with it, and we welcome the opportunity to be here and
20 visit with you today.

21 I brought along the man who is in charge of
22 our systems, who understands what goes into the switch,
23 what comes out of the switch, what capabilities Dakota
24 has to offer in the way of what product we'll be able
25 to give to our customers.

1 I've also brought along the man who's in
2 charge of the systems and what we offer to our
3 customers in the way of what kind of procedures we'll
4 have to offer for low cost -- or for low income, for
5 people who need the benefits of the universal service
6 funds. Each of those gentlemen will be available, and
7 I will ask them some very brief questions. But I would
8 offer them more for you Commissioners to familiarize
9 yourself with Dakota and what capabilities we're going
10 to offer.

11 I, first of all, as a preliminary matter,
12 would point out that the designation of an eligible
13 telecommunication carrier is defined in the Federal Act
14 as a common carrier designated as an eligible
15 telecommunication carrier shall be eligible to receive
16 universal service support in accordance with Section
17 254 and shall throughout the service area for which the
18 designation is received, A) offer the services that are
19 supported by federal universal service support
20 mechanisms under Section 254(c), either using its own
21 facilities or a combination of its own facilities and
22 resale of another carrier services; B) advertise the
23 availability of such services and the charges therefore
24 using media of general distribution.

25 Insofar as Dakota is concerned and what we

1 will be offering today, we will only be talking about
2 those facilities that are in the traditional Dakota
3 service area. And we will be back here offering to
4 bring these same services in a different company, not
5 within Dakota, but in one of our CLEC's, competitive
6 local exchange carrier, rather than the ILEC, the
7 incumbent local exchange carriers.

8 But today we are only talking about the
9 traditional areas where Dakota has always operated. We
10 will be offering all of those services with our own
11 facilities. Those will not be done by resale. A great
12 many of the services that we will be able to be
13 offering will come through a new switch that we're
14 installing at this time.

15 Mr. Larry Sorensen, the operations -- the
16 systems is close enough, he informs me. The systems
17 man will be able to tell you in great detail what
18 capabilities this new switch has, and any capabilities
19 that the switch doesn't have it is fully upgradable.
20 And to the extent that this Commission feels that
21 additional capabilities should be available, we will
22 make every effort to bring those on line as quickly as
23 we can.

24 Other states have handled the designation of
25 eligible telecommunications carrier status

1 differently. I note that Minnesota recently did an
2 automatic designation of LEC's by rule making. They
3 stated that each local exchange carrier operating in
4 Minnesota shall be designated as an eligible
5 telecommunications carrier eligible to receive
6 universal service support throughout its service area
7 existing on the effective date of these new rules.
8 That's one way to proceed.

9 By calling in witnesses and by asking, we're
10 quite comfortable because we want to make you familiar
11 with who we are and what we're able to do. We want to
12 be able to answer your questions. And if we can't
13 answer them today, if there are other things that you
14 wish us to go back and do further research on to bring
15 you further information, we welcome that opportunity
16 because we want to be here to let you know what we can
17 do.

18 We want to know what you want us to do
19 because this program, as it's administered by the
20 state, is a very important program. And the federal
21 government has decided that there should be some things
22 out there to take care of individuals who aren't as
23 fortunate as many of us are. And you are given the
24 responsibility for deciding how we go about doing
25 that. So we want to be here, and we want to be

1 familiar with what your requests are, and we want to
2 provide for those requests.

3 As a lawyer, I generally like to know what
4 I'm in court, or in an administrative agency, what I'm
5 here to prove. As I see it, I spoke with Commission
6 Counsel to get her thoughts on it last -- it would have
7 been last month, I think, when we spoke; and she
8 directed me to the rules promulgated by the FCC as part
9 of the universal service docket.

10 As she directed me, my understanding is that
11 we are here to inform the Commission that we will be
12 capable of providing voice grade access to the public
13 switched network, of providing a certain amount of
14 local usage, that is usage that will be included free
15 to people who receive telephone service from us, that
16 we will be able to offer dual tone multi-frequency
17 signalling or its equivalent digital signalling, that
18 we will be able to offer single party service, that we
19 will offer access to emergency services, that is 911 or
20 E911, that we are able to offer access to operator
21 services, either automatic or live, that we will be
22 able to offer access to interexchange services, that we
23 will be able to offer access to directory assistance,
24 and that we will be able to offer toll limitation to
25 qualifying low income customers.

1 In addition, I believe it's our burden to
2 show that as of the effective date of these rules, we
3 will be advertising the availability of these services,
4 which we are already doing. But in addition, we will
5 be offering to advertise those prices in a manner that
6 this Commission directs us to. At this time we have
7 the prices available on the Internet. We have the
8 prices available upon request.

9 We would look to this Commission for some
10 sort of direction on whether you want us to advertise
11 the prices for local service, the prices for toll
12 service, or how you believe we are to proceed to offer
13 prices to all of our customers. We will comply with
14 whatever direction this Commission gives. We
15 understand that we have the obligation to advertise
16 those prices. And we will proceed accordingly.

17 As I stated, we welcome the opportunity to
18 spend this morning -- and I don't think it will extend
19 beyond this morning. To spend this morning sharing
20 what we are capable of with this Commission. And
21 unless there are specific questions which either the
22 Commissioners or staff wish to direct to me, I will
23 proceed to call my first witness.

24 CHAIRMAN BURG: I have a clarifying question
25 probably. You mentioned the decision in the rules of

1 Minnesota. Would that be for what would be considered
2 ILEC's rather than just all LEC's, local exchange
3 carriers?

4 A. I've only read through the Minnesota rules,
5 and I don't know. I think they are -- they were to be
6 adopted yesterday. There was a hearing on them
7 yesterday. But as I read it, it is the ILEC's.

8 CHAIRMAN BURG: Okay. You said LEC's and
9 that's why I wanted clarification. I presume that's
10 what this Minnesota --

11 MR. MARMET: I'll read the next section which
12 reads designation of CLEC's, which I think makes it
13 clear they were talking about incumbent LEC's. That
14 was how Minnesota chose to do it. It is this
15 Commission's prerogative to do it through hearing, or
16 after these hearings you decide it is more appropriate
17 to do it through rule making, that is your
18 prerogative. We are here today to offer our testimony.

19 CHAIRMAN BURG: Thank you.

20 MS. WIEST: Staff have any opening?

21 MR. HOSECK: Just briefly. Mr. Chairman,
22 members of the Commission: Staff looks at this
23 application as more or less a checklist type
24 proceeding. And that is we would submit to the
25 Commission that Dakota has the burden of proof in this

1 matter to come forward and show that it has met the
2 various criteria set forth in the federal statutes and
3 the federal rules. And we would just say that it's
4 going to ultimately be up to the Commission to decide
5 whether or not that checklist has been met. Thank
6 you.

7 MS. WIEST: You may call your first witness.

8 MR. MARMET: Thank you. I would call Tim
9 Dupic at this time.

10 **TIM DUPIC,**

11 called as a witness, being first duly sworn,
12 was examined and testified as follows:

13 DIRECT EXAMINATION

14 BY MR. MARMET:

15 Q. Would you state your name for the record,
16 please.

17 A. My name is Tim Dupic.

18 Q. And how are you employed?

19 A. I'm vice-president of operations for Dakota
20 Telecommunications.

21 Q. Tim, you've been involved in
22 telecommunications for a number of years; is that
23 correct?

24 A. That's correct.

25 Q. Would you briefly relate to the Commission

1 your experience?

2 A. I started out with the South Dakota Public
3 Utilities Commission in 1976. I then went to the Iowa
4 State Commerce Commission in 1979. In 1983 I started
5 work for the NECA, National Exchange Carrier
6 Association in the headquarters operation. Transferred
7 to the regional operation in Omaha, Nebraska, in 1990;
8 and came to work for Dakota in January 1996.

9 Q. And what are your responsibilities at Dakota?

10 A. I'm vice-president of operations. I'm
11 primarily responsible for the overall procedures and
12 operations as the administrative functions of the
13 office.

14 Q. And so in that capacity are you responsible
15 for setting policies or for supervising the
16 establishment of policies as they would relate to
17 matters such as providing low cost assistance or
18 anything else that would involve the establishment of
19 procedures by the company?

20 A. Yes, I would be.

21 Q. One of the issues that we are to present to
22 the Commission today is what sort of policies will
23 Dakota put in place with regard to low income customers
24 consistent with the federal rules. You've had an
25 opportunity to read through the Joint Board's

1 recommended decision and the discussion associated with
2 it; is that correct?

3 A. That's correct.

4 Q. And have you consistent with that, thought
5 about some of the policies that Dakota will put into
6 place to accomplish those goals?

7 A. Yes, I've given it some thought. We'll have
8 to put in whatever policies are required of this
9 Commission to adhere to those rules and regulations
10 that were established by the FCC. There will be
11 policies on life line, link up procedures.

12 Q. And you're familiar with what life line is,
13 are you not?

14 A. Yes.

15 Q. Could you briefly explain to the
16 Commissioners, and if they don't know, what it is?

17 A. The life line procedures is a nationwide
18 program that was established some years ago that,
19 depending upon whether the states were involved or not,
20 would allow the companies to waive certain fees, the
21 SLC fees up to a certain dollar amount depending upon
22 the, I imagine, from the state's -- from the end user's
23 bill. Those dollars were recovered then from the
24 interstate jurisdiction.

25 Q. For purposes of clarification, what is a SLC

1 fee?

2 A. A subscriber line charge, \$3.50 cents for
3 residential basic.

4 Q. And is that program in place in South Dakota
5 today?

6 A. No, it's not, not the matching. There's no
7 matching state side.

8 Q. What about the link up? Are you familiar
9 with that program?

10 A. The link up is a program whereas up to \$30
11 would be waived for establishing a connection for an
12 individual who met certain requirements to have
13 connection to their to the network. And those dollars
14 again are recovered from the interstate jurisdiction.

15 Q. And is that program in place in South Dakota
16 today?

17 A. No, I don't believe it is.

18 Q. As part of your responsibilities, you will be
19 instrumental in establishing how Dakota goes about
20 administering the program. Have you thought about how
21 Dakota will measure whether customers are entitled to
22 this if the Commission is not explicit in how we should
23 do it?

24 A. If the Commission is not explicit in how we
25 should do it, there are some -- one available option to

1 us would be to have a self certification, which the
2 Commission could direct us to if a customer comes in
3 and self certifies that they meet these requirements,
4 or they are a current recipient of SSI, or food stamps,
5 or energy assistance, or whatever some of the other
6 requirements were in the -- that the FCC put out, we
7 could adopt the policy along those lines.

8 Q. And if we were to adopt that policy, would we
9 have the capability to offer those services, the toll
10 limitation, to low income customers? Or would you
11 prefer to defer to Mr. Sorensen on that?

12 A. Larry would be a better person to answer that
13 question.

14 Q. Okay. At this time does Dakota offer local
15 usage? That is, is there a certain amount of free time
16 that goes with the purchase of local telephone service?

17 A. Yes, to those areas that there's no toll
18 charges to.

19 Q. At this time does Dakota offer single party
20 service?

21 A. Yes.

22 Q. Do we offer any dual party service or party
23 line service?

24 A. No, we do not.

25 Q. Does Dakota offer access to emergency

1 services through 911 or E911?

2 A. Yes, we have access to E911.

3 Q. Does Dakota offer access to operator
4 services?

5 A. Yes, we do.

6 Q. Does Dakota offer access to interexchange
7 service?

8 A. Yes, we do. We're an equal access company.

9 Q. Could you explain to the Commissioners what
10 that means, or for the record? I'm sure the
11 Commissioners know, but so the record will be clear.

12 A. We provide equal access for our customers. A
13 customer can come in and pick the carrier of their
14 choice that is available on our system, just as AT&T,
15 Sprint, MCI.

16 Q. Does Dakota offer long distance services
17 itself?

18 A. Yes, we do.

19 Q. And a customer is not bound to use Dakota's
20 long distance services; is that correct?

21 A. That's correct.

22 Q. Does Dakota offer access to directory
23 assistance?

24 A. Yes, we do.

25 Q. If I might have just a moment. Are you

1 familiar with Dakota's advertising at this time?

2 A. Yes.

3 Q. And are you familiar with the boundaries of
4 the Dakota service area?

5 A. Yes.

6 Q. Does Dakota offer -- or does Dakota advertise
7 the availability of its services throughout its service
8 area?

9 A. Yes, we do.

10 Q. And at this time in a typical advertisement
11 presented by Dakota, are the prices of the offered
12 services on those advertisements?

13 A. Some of them, I believe they are, yes.

14 Q. Okay. Does Dakota also have what is commonly
15 known as a home page?

16 A. Yes, we do.

17 Q. Are all services that are available and the
18 prices for which they're available for shown on that
19 home page?

20 A. Yes, that's correct.

21 Q. Okay. Would it be difficult to insure that
22 all Dakota advertising contained prices for services?

23 A. All advertising?

24 Q. All advertising that is in media of general
25 circulation in Dakota service area.

1 A. Would it be difficult? No, it wouldn't be
2 difficult.

3 Q. And in your role, would that be one of the
4 things that you would be responsible for ensuring?

5 A. I would work with the marketing group on
6 that.

7 Q. All right. Is there anything else you want
8 to discuss with the Commissioners at this time?

9 A. None that I can think of.

10 MR. MARMET: All right. The witness is
11 available for cross-examination.

12 MS. WIEST: Staff?

13 CROSS-EXAMINATION

14 BY MR. HOSECK:

15 Q. Good morning, Mr. Dupic.

16 A. Good morning.

17 Q. Back to this question of life line and link
18 up. Are you aware does -- are those programs in
19 existence, for instance, in U S West's territory?

20 A. Yes, I believe they are.

21 Q. But as I'm understanding your testimony here
22 today, you do not -- when I say you, your company --
23 does not at this point in time offer that type of a
24 life line or link up service; is that correct?

25 A. That's correct.

1 Q. With regard to the equal access that you just
2 testified to as being available, is that available on a
3 two pick basis?

4 A. Explain to me what you mean by two pick.

5 Q. In other words, is it available for more than
6 one pick? In other words, can you choose more than one
7 long distance carrier?

8 A. You pick one primary exchange carrier.

9 Q. Pardon me?

10 A. You select one primary exchange carrier. Our
11 list consists of 12 to 15 carriers.

12 Q. Okay. But also on an intra and interstate
13 basis, in other words, one in state and one out of
14 state?

15 A. I'm sorry, no, we do not have intrastate to
16 pick, just interstate.

17 Q. And with regard to the services that you
18 offered, when Mr. Marmet was going through the list, I
19 don't know that I caught this, but do you offer dual
20 tone multi-frequency signalling or its functional
21 equivalent?

22 A. That would best be answered by Larry
23 Sorensen.

24 Q. Okay. Is the service area in which you seek
25 eligible to make telecommunications carrier designation

1 your study area?

2 A. Yes, it is.

3 Q. And one of the criteria that are listed in
4 the CFR's for the services that must be offered deals
5 with toll limitation services. Does your company offer
6 that service presently?

7 A. We offer toll blocking today.

8 Q. And there was some mention in the opening
9 statement about a new switch or switching capabilities
10 that are going to be implemented by your company. Will
11 this service be continued on through with the
12 installation of that new switch?

13 A. Yes, it will, with even some enhancements on
14 toll. The questions regarding that switch would best
15 be directed to Mr. Sorensen.

16 Q. And if and when you implement some sort of a
17 life line or link up type system, is there any intent
18 to charge for this type of service? In other words,
19 the blocking service?

20 A. I believe we would be precluded from doing
21 that. Could I clarify that last response? I believe
22 we would be precluded from charging any type of fee for
23 toll blocking or anything from those who do qualify for
24 the life line program.

25 Q. Just one question as a matter of

1 clarification as to the life line type service. Is
2 this something that is ordered by the FCC, or is it
3 ordered by this Commission?

4 A. It's in the Commission -- it's in the FCC's
5 orders.

6 MR. HOSECK: That's all the questions I
7 have. Thank you.

8 MS. WIEST: Commissioners?

9 COMMISSIONER NELSON: I have one. Mr. Hoseck
10 asked the question about the availability of intrastate
11 and interstate picks for long distance carriers. And I
12 thought you told me that you could have an interstate
13 pick but not an intrastate pick. Do you have the
14 capability of allowing people to have an intrastate
15 pick too?

16 A. That would best be answered by Larry
17 Mr. Sorensen. I believe the answer today is, no, we do
18 not have that capability on the state side. I'm not
19 sure with the new switch if we're going to have that
20 capability or not.

21 COMMISSIONER NELSON: Okay. I'll ask him.
22 Thank you.

23 CHAIRMAN BURG: Just one I have for
24 additional clarification. You said you have access to
25 E911. Is that in all your exchanges?

1 A. Yes, I believe it is.

2 CHAIRMAN BURG: They're all capable of E911
3 at this point?

4 A. That's right.

5 CHAIRMAN BURG: That's the only question I
6 have.

7 COMMISSIONER SCHOENFELDER: I have a couple.
8 What are Dakota's -- first of all, in Mr. Marmet's
9 opening statement he said Dakota will be able to
10 offer. I don't know what is it that you will be able
11 to offer that you're not able to offer now. Could you
12 clarify that a little more? Are there certain services
13 that you don't have now that you will be able to offer
14 to qualify for an ETC?

15 A. We are currently capable of providing all of
16 those services with the exception of toll limitation is
17 my understanding. We provide toll blocking today. And
18 with the new switch we'll be able to provide toll
19 limitation in addition to toll blocking. The other
20 services, the voice grade, the E911, the directory
21 assistance, operator assistance, and whatever else was
22 on the list, those are all available today.

23 COMMISSIONER SCHOENFELDER: Okay. Then let's
24 go back to low income. What are your plans for low
25 income? Do you believe that you're eligible for ETC

1 now without implementation of your low income policies
2 that's required by the federal order?

3 A. You're referring to the life line program,
4 life line and link up both? We currently have no life
5 line link up program in place today. We would be
6 looking for some direction from the Commission on what
7 they would want the exchange carriers to have.

8 COMMISSIONER SCHOENFELDER: But I believe the
9 federal order -- how will you comply with the federal
10 order then? And do you believe that you have to comply
11 with the federal order for us to grant you an ETC? I'm
12 interested in your comments on that. And if you don't
13 feel free to comment on that, I would be interested in
14 Mr. Marmet's response to that in his final argument or
15 something. But you have no low income policies at all
16 in place right now?

17 A. Not today, that's correct.

18 COMMISSIONER SCHOENFELDER: Okay. Let's talk
19 about advertising just a little bit. I believe that
20 the FCC said and the Joint Board said as well as -- if
21 I can find it now. The statute says that you have to
22 advertise the availability of such services and the
23 charges therefore using media of general distribution.
24 And I believe that the FCC said in its final order that
25 business type publications is not sufficient; that you

1 would have to advertise -- and if I'm following them
2 right -- your charges as well as your services in a
3 paper, I guess. But that's not exactly the right word,
4 in a media of general distribution.

5 Now, you've indicated, I believe, the
6 Internet, a home page on the Internet. Do you believe
7 that's sufficient, or do you believe or do you plan on
8 going to other types of media and other types of
9 general distribution? Before you answer that question,
10 I think that it may have a lot to do with what the
11 public that you serve in your area would consider
12 general distribution to the public. And have you taken
13 that into account? And what are your plans? That's a
14 lot of questions in one. But I think I stayed on the
15 same track.

16 A. It was a very good question. Yes, we have
17 considered that. And, personally, no, I do not believe
18 just advertising on the Internet would reach all of our
19 subscribers out there. We would also advertise in the
20 local publications, the media, all the newspapers that
21 are provided in our various exchanges. Plus, we would
22 probably also advertise -- I hate to use advertise.
23 Inform the consumers through our Dakota Lines, our
24 newsletter, that we send out to all our subscribers.
25 We also use radio media too.

1 COMMISSIONER SCHOENFELDER: Okay. And this
2 may be a legal question and if it is, you may defer to
3 your counsel. But I need to know from Dakota's point
4 of view whether you believe that the guidelines that
5 the FCC Order calls for to be set up by this
6 Commission, if it's permissible for us to do guidelines
7 in order setting precedent with that order if you
8 believe this Commission has to go to a rule making, or
9 if you believe what Mr. Marmet visited about, about the
10 Minnesota just rubber-stamping those companies in is
11 sufficient. That may be a legal question. I need an
12 answer to that sometime today though.

13 A. I'll defer that to legal counsel.

14 COMMISSIONER SCHOENFELDER: Okay. That's all
15 I have then. Thank you.

16 MS. WIEST: Any other questions from
17 Commissioners?

18 CHAIRMAN BURG: No.

19 MS. WIEST: Is Dakota then requesting at this
20 time a waiver from the toll limitation requirement for
21 a specified period of time?

22 MR. MARMET: May I answer that?

23 MS. WIEST: Go ahead.

24 MR. MARMET: We are requesting a waiver. As
25 I read the rules, we are forward-looking to January 1st

1 of 1998. We will have everything in place by then,
2 including the advertising of prices, including the
3 policies that we are looking for this Commission for
4 guidance on.

5 MS. WIEST: But by January 1st of 1998 you
6 will be able to offer toll control?

7 MR. MARMET: Yes.

8 CHAIRMAN BURG: So I take it the answer to
9 her question would be that you will not be requesting a
10 waiver?

11 MR. MARMET: That is my statement, yes.

12 CHAIRMAN BURG: Okay.

13 COMMISSIONER SCHOENFELDER: I have a further
14 question. Excuse me, Rolayne, for interrupting. But
15 my further question is if you're requesting ETC
16 designation now and you're not able to now provide
17 these things, will you need -- in your opinion, you
18 don't think you need a waiver then?

19 MR. MARMET: I think this Commission can make
20 the designation be effective January 1st of 1998, or
21 effective on whatever date that this Commission
22 chooses; and we will have those things in place by that
23 time.

24 COMMISSIONER SCHOENFELDER: Including the
25 life line, link up program?

1 MR. MARMET: Including life line, link up if
2 it's so designated by this Commission, yes.

3 MS. WIEST: Any other questions of this
4 witness?

5 COMMISSIONER NELSON: I have one. Maybe
6 you're not the right person to ask either. Back to the
7 intrastate and interstate pick, will you have those
8 capabilities in January of 1998?

9 MS. WIEST: It should be the witness. I mean
10 we can't --

11 MR. MARMET: We defer to the next witness on
12 that, Commissioner.

13 COMMISSIONER NELSON: Okay.

14 MS. WIEST: Any other questions, Mr. Hoseck?

15 MR. HOSECK: Yes. Mr. Dupic, just one
16 question, and if you can answer it. When is this new
17 switch to be installed and operational?

18 MR. MARMET: Again, Mr. Sorensen will be the
19 next witness.

20 MS. WIEST: Any other questions of this
21 witness? Thank you.

22 A. Thank you.

23 MR. MARMET: Call Larry Sorensen.
24
25

1 LARRY SORENSEN,

2 called as a witness, being first duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MR. MARMET:

6 Q. Would you state your name for the record,
7 please.

8 A. My name is Larry Sorensen.

9 Q. And how are you employed?

10 A. Currently the vice-president of systems with
11 Dakota Telecommunications.

12 Q. Would you state for the record your
13 background, please?

14 A. I started with Dakota Telephone in 1976.
15 Started out on the crew. Been in the central office
16 equipment since '77. I spent from '93 to 95 as central
17 office supervisor, and I have been at this position
18 since then.

19 Q. And what does your current position involve?

20 A. Basically oversee everything that happens
21 outside the business office. The company is broken
22 into three main groups. It would be installation and
23 repair, construction crew, and central office
24 equipment. There are supervisors for each one of those
25 departments, and I basically work with them.

1 Q. Because there's interest in it, let's get
2 right to the switch. Tell us about the switch that
3 Dakota is installing.

4 A. Okay. Currently -- I think it would be best
5 if we backed up one step. The company currently has
6 ten stand-alone switches. We're replacing them with a
7 new Lucent 5E switch with remotes and SLC units, if
8 you're aware what those are, currently being
9 installed. We're expecting turnover and cut-over to
10 happen through the month of October and November.
11 Hopefully by late November everything will be up and
12 operational.

13 Q. And this switch we've talked a little bit
14 about is not the only new piece of equipment that will
15 be installed, is it?

16 A. No. There will be a voice mail system. This
17 system also has the capability of a debit card, free
18 pay toll cards, and anything like that that would go
19 on. Also fiberoptic transmitting equipment, high speed
20 48 rings from our company.

21 Q. And the combination of these pieces of
22 equipment, we'll then be able to offer toll blocking?

23 A. Yes, toll.

24 Q. Could you explain so that I could understand
25 it what toll blocking is?

1 A. Okay. You currently would have a customer
2 that would call in that would request -- I'll give you
3 an example. A restaurant where they don't want people
4 going up using their phone dialing long distance. We
5 have the capability of blocking 1+ plus calls, 0+1
6 calls, or a combination of the two.

7 Q. So that means somebody who had requested this
8 service could not make any long distance calls
9 whatsoever; is that correct?

10 A. If they block both 1 and 0, that's correct.

11 Q. The new equipment that is going to be put in,
12 will it also offer the capability to provide toll
13 limitation?

14 A. Yes.

15 Q. Would you explain so that I can understand it
16 what toll limitation is?

17 A. It's basically not done on this switch. It
18 would be done, to my knowledge, in the voice mail
19 system that you would through software enter a prepaid
20 dollar amount, \$100; and when that amount was met or
21 used up through a rating system, you would, I would
22 assume, go to a recording that would tell you so if you
23 tried to dial one.

24 Q. And this equipment will be installed in the
25 fall of 1997, is that your statement?

1 A. That's correct.

2 Q. Let's get -- would these services be offered
3 to any customer who requested them?

4 A. Yes.

5 Q. Would they be offered to low income customers
6 as well?

7 A. Yes.

8 Q. You're familiar with the capabilities of
9 Dakota's present operations, are you not?

10 A. Yes.

11 Q. At this time and once the new switch and
12 associated equipment are installed, will Dakota offer
13 voice grade access to the public switched network?

14 A. Yes.

15 Q. Will that be a 3,500 hertz bandwidth and a
16 frequency range between 500 hertz and 4,000 hertz?

17 A. That's correct.

18 Q. Does Dakota now and will Dakota continue to
19 offer local usage?

20 A. Yes.

21 Q. Does Dakota now and will Dakota in the future
22 offer dual tone multi-frequency signalling or its
23 equivalent digital signalling?

24 A. Yes.

25 Q. Would you explain so I could understand it

1 what those mean?

2 A. Dual tone multi-frequency is just what it is,
3 is dual tone. You also have MF signalling in the
4 switch. MF signalling is the signalling they use
5 between offices. It's just a single tone. Dual tone
6 is on a touch tone pad on a telephone that you have a
7 grid work of tones so if you push a one, you have two
8 mixed tones. You push a two, you got another two, and
9 that's what your dual tone is. It's the difference
10 between the two.

11 Q. Does Dakota offer single party service?

12 A. Yes.

13 Q. Does Dakota offer access to emergency
14 services?

15 A. Yes.

16 Q. Does Dakota offer access to operator
17 services?

18 A. Yes.

19 Q. Does Dakota offer access to interexchange
20 service?

21 A. Yes.

22 Q. Could you explain a little bit about the two
23 pick?

24 A. My understanding of the two pick is your
25 first pick would be your interstate pick, your second

1 pick would be your intrastate pick or intraLATA.

2 Basically instate, out of state, in the case of South
3 Dakota.

4 Q. And at this time does Dakota offer dual pick?

5 A. It has the capabilities of offering it. We
6 do not offer it interstate only right now.

7 Q. And with the new switching equipment, will
8 that be the case also?

9 A. That is true. Let me clarify one thing on
10 that last statement. Out of the ten offices that we
11 currently have, three of them do not have the
12 capability of dual pick.

13 Q. Once we have installed the new equipment,
14 will all of the exchanges within the traditional Dakota
15 service area be served out of that same office?

16 A. That's correct.

17 Q. So any capability that is available to one
18 will be available to all; is that correct?

19 A. Yes.

20 Q. Does Dakota offer access to directory
21 assistance?

22 A. Yes, they do.

23 MR. MARMET: I would tender the witness for
24 cross-examination.

25 MS. WIEST: Staff?

1 MR. HOSECK: No questions.

2 MS. WIEST: Commissioners?

3 CHAIRMAN BURG: The only question I have is
4 just one of information. Where is the new switch being
5 installed?

6 A. It would be installed in Viborg, South
7 Dakota.

8 CHAIRMAN BURG: All right. That's the only
9 thing I have.

10 COMMISSIONER NELSON: Do you know if you
11 intend to offer the intrastate pick?

12 A. I believe that's a legal issue, so I'll have
13 to defer that to Robert.

14 MS. WIEST: Your new Dakota
15 Telecommunications Group, is that comprised solely of
16 what is formerly known as Dakota Cooperative?

17 A. That's correct.

18 MS. WIEST: And getting back to toll
19 limitation, you were talking about toll limitation. I
20 think you were talking about toll limitation is both
21 toll blocking and toll control. So getting to the
22 issue of toll control, that is what you will be
23 offering through your voice mail service, is that true?

24 A. The voice mail system is manufactured by a
25 company outside of Lucent, who is our switch

1 manufacturer. They work together as a team. So that's
2 why I say it's not in the switch. It comes on an item
3 that's purchased outside of Lucent, but they work
4 together on that.

5 MS. WIEST: And then in order for a customer
6 to have toll control, then that customer -- would that
7 be another charge in order to have voice mail, for
8 voice mail?

9 A. That I couldn't answer. I can tell you
10 technically how it would work, but I don't know how
11 they're going to charge for it.

12 MS. WIEST: And you don't know if Dakota is
13 charging for any toll limitation, whether it be toll
14 blocking or toll control?

15 A. No, I do not know for sure.

16 MS. WIEST: And with respect to toll control,
17 getting back to the voice mail, then in order to have
18 that service, is it correct that you would have to
19 prepay that or not?

20 A. I believe that's one way it would work. That
21 would be up to the office. But you tell the equipment
22 when to start and when to stop and how you administer
23 that, I guess, would be an office.

24 MS. WIEST: So it is possible that in order
25 for a customer to receive toll control, they could

1 actually say they don't want to go over \$50 and give
2 that information to you and they wouldn't have to
3 prepay that amount in order to receive that?

4 A. I would -- yeah, I would say yes to that.

5 MS. WIEST: But it is also an option that
6 they may have to prepay that?

7 A. True. It would be strictly a collection
8 policy, if I understand your question correctly.

9 MS. WIEST: That's all I have.

10 CHAIRMAN BURG: Just maybe one quick
11 follow-up. If you develop the policy that had to be
12 prepaid, would there be toll blocking without the
13 prepayment?

14 A. I would assume so.

15 CHAIRMAN BURG: Is that how you look at it
16 being applied?

17 A. Yes.

18 CHAIRMAN BURG: Okay.

19 A. I have one clarification that I picked up
20 earlier I might bring out and that's on the emergency
21 911. Dakota has the capability of providing E911.
22 There are some counties that cannot accept E911. I
23 think Union County is one of them.

24 CHAIRMAN BURG: But you do have the
25 capability for E911 in every exchange?

1 A. That's correct.

2 MS. WIEST: So you don't actually provide
3 E911 to all of your exchanges at this time?

4 A. Union County cannot handle the data from E911
5 so in that case we do not.

6 MS. WIEST: And you don't know what other
7 counties, if any?

8 A. All the other counties that we have do have
9 E911.

10 MS. WIEST: And you provide it in those
11 counties that have it?

12 A. Yes.

13 CHAIRMAN BURG: And I understand correctly
14 that's a county choice whether they want 911 or E911;
15 is that correct?

16 A. That's the way I understand it, yes.

17 COMMISSIONER SCHOENFELDER: But Union County
18 does have 911?

19 A. Yes, they do.

20 COMMISSIONER SCHOENFELDER: Okay.

21 MS. WIEST: Any other questions of this
22 witness?

23 CROSS-EXAMINATION

24 BY MR. HOSECK: Yes, one question.

25 Q. The new switch is going to be located in

1 Viborg; is that correct?

2 A. That's correct.

3 Q. And is Viborg within your service territory?

4 A. Not DTG service area, no.

5 Q. Does that give you any type of operational
6 problems as far as that being located there?

7 A. It's located there initially as a central
8 location to Dakota's exchange. And we own the cable TV
9 system there. And the initial was to go in and build a
10 new structure for cable TV.

11 Q. Okay. Thank you.

12 MS. WIEST: Getting back to life line and
13 link up, I'll just ask you this question: Is it your
14 understanding that the FCC has required you to provide
15 life line and link up?

16 A. To my understanding, yes.

17 MS. WIEST: Okay. That's all I'd have.
18 Anybody else have any questions?

19 Thank you.

20 Do you have any other witnesses, Mr. Marmet?

21 MR. MARMET: I have no other witnesses. I
22 would offer Exhibit No. 1 and No. 2, the Application
23 and the Amended Application.

24 MS. WIEST: Are there any objections to
25 those?

1 MR. HOSECK: No objections.

2 MS. WIEST: They have been received.

3 Does staff have any witness?

4 MR. HOSECK: Staff does not have any
5 witnesses.

6 MS. WIEST: The Commissioners have anything
7 else?

8 CHAIRMAN BURG: I just want one clarification
9 and probably either you can or Mr. Marmet. The way you
10 would read the Act is that requirement that they are
11 capable of offering E911, even if it is not offered in
12 all cases, would that meet the requirement?

13 MR. MARMET: That is how I would read it.

14 CHAIRMAN BURG: I would presume it would have
15 to be because it's up to the county as to what service
16 they want.

17 MS. WIEST: That's my understanding.

18 CHAIRMAN BURG: As long as you have the
19 capability, you should qualify.

20 MR. MARMET: We can send the signal and they
21 can choose not to receive it in that form.

22 CHAIRMAN BURG: Is that the way you interpret
23 it as well?

24 MS. WIEST: Yes.

25 COMMISSIONER SCHOENFELDER: Miss Wiest, I'm

1 not about to ask for briefs, but I would ask Mr. Marmet
2 to qualify in his closing statement what he believes
3 the State Commission should do in establishing what I
4 think the FCC Order says guidelines for advertisement
5 and charges and whether how he sees that we proceed to
6 establish a precedent to qualify people for eligible
7 carriers.

8 MR. MARMET: I'd be happy to address that.

9 COMMISSIONER SCHOENFELDER: I don't want to
10 brief. I would like your statement on the record, your
11 opinion, I guess.

12 MR. MARMET: If I can remember the questions
13 that you asked, I'll do my best. And if I don't, I'm
14 sure you will follow up with more questions.

15 On the life line and the link up, clearly the
16 FCC has said that it should be available to low income
17 consumers nationwide. That obligation is there. How
18 it is to be carried out, Dakota could either say we
19 will arbitrarily decide whether people qualify for it
20 or not. I don't think that would be fair. I don't
21 think that would be right.

22 If this Commission says that an individual
23 has to come in and show that they qualify for food
24 stamps by bringing in proof from the food stamp office,
25 that would be one way of doing it. If the Commission

1 would say there is to be a central clearing house in
2 the state where Dakota and every other phone company
3 calls up and says does John Smith qualify as low
4 income, we would follow that.

5 We are looking to this Commission for
6 guidance as to how we administer the program. We would
7 be happy to help in any way at all to administer the
8 program either through our computer system or in any
9 way that we can, but we are looking to the Commission
10 for some sort of guidance. We have the obligation to
11 provide those services. We are quite willing to
12 provide those services. But, quite candidly, we don't
13 know how we are to measure whether an individual is
14 qualified to receive the benefit of those services
15 without some sort of guidance from the Commission.

16 As to the next question, I'll have to ask you
17 which it was.

18 COMMISSIONER SCHOENFELDER: Well, I think
19 that the legal opinions I've asked for from you, and
20 obviously we'll consult with counsel also, is whether
21 we need to write rules about ETC's, or whether we need
22 to just set a precedent, or whether we can follow the
23 guidelines that the FCC sat down and just do
24 guidelines.

25 MR. MARMET: My personal opinion, and I

1 qualify it as such: My personal opinion is that you
2 have to write rules and that you have to write rules
3 that will be followed both by the incumbents as well as
4 the competitive LEC's. That if we don't proceed with a
5 set of rules and if you don't take this as an
6 opportunity to say we are glad that Dakota came here,
7 it is only a first step, but we do now think we should
8 back up and write rules about it. I think that writing
9 rules that everybody can look at before they can come
10 to a hearing like this will present a more level
11 playing field so that both the incumbents and the
12 CLEC's can come to this Commission and can know what it
13 is that their obligations are and how they are to go
14 about proving them.

15 There are many companies in the state who
16 will not be able to offer toll limitation. As I've
17 read through the regulations in this matter, I can't be
18 positive whether you have to offer both toll blocking
19 and toll limitation, or whether you have to offer toll
20 blocking or toll limitation. It appears to me that you
21 can sure make an arguable case that if you can't offer
22 toll limitation, that is you can only say up to \$50,
23 that you might not be able to qualify as an ETC.

24 I think that if this Commission were to
25 undertake a rule-making proceeding, it would clarify

1 those matters so that the companies out there would
2 know what they're to do.

3 COMMISSIONER SCHOENFELDER: Would you also
4 include in that rule making the guidelines for
5 advertising or --

6 A. Yes.

7 COMMISSIONER SCHOENFELDER: Because the FCC
8 only refers to guidelines.

9 MR. MARMET: I would. And if it's guideline
10 rather than rule making, I'd become cool with that
11 too. I think that what I would, again personally,
12 request from this Commission is that they tell us how
13 we are to go about it. If we're unable to go about it,
14 then we need come and seek waivers. If we cannot
15 qualify, then we cannot qualify. And if no company is
16 an eligible telecommunication carrier in a particular
17 area because it doesn't have the capabilities, then
18 other people need to know whether they can go in there
19 and provide those capabilities. Guidelines will give
20 us an opportunity to understand what we're supposed to
21 do before we get to a hearing, before we come in and
22 say, yes, we can do these things tomorrow, but today we
23 can't. Does that mean that we shouldn't apply to be an
24 eligible telecommunications carrier today? Should we
25 wait until tomorrow?

1 COMMISSIONER SCHOENFELDER: Okay. And then,
2 furthermore, your opinion on that, if do you believe
3 the Commission could approve DCT -- or, excuse me, it's
4 the wrong -- Dakota as an eligible carrier today or
5 tomorrow and still designate the date that you actually
6 become eligible upon the conditions that the Commission
7 would set forth?

8 A. I believe you could.

9 COMMISSIONER SCHOENFELDER: You believe
10 that? Your legal interpretation of the Act says that?

11 MR. MARMET: If I can qualify it by saying
12 it's off the top of my head without doing research,
13 yes.

14 COMMISSIONER SCHOENFELDER: Thank you. I
15 think that's all I have.

16 CHAIRMAN BURG: One question I might have,
17 too, for guidance is, there are some counties that have
18 no 911 service. They've chosen not to have 911
19 service. And the way I read the Act, they would not be
20 an eligible carrier. Do you have any way -- I mean we
21 can great grant a waiver for that particular section, I
22 think, if I am reading it right that we could, but
23 that's only for -- we also have to designate the amount
24 of time. Do you have any opinion on how we would get
25 around that? Because I think, frankly, we want an

1 eligible carrier in all locations.

2 MR. MARMET: I think you do too. And the
3 difficulty here is that if something is physically
4 impossible, how do you order it to occur? If a county
5 says we don't have the money, we're spending too much
6 money on our roads, we're spending too much money on
7 the things that we consider more important, we just
8 aren't going to do that, how do you proceed? And I
9 think that the only thing that you can do is grant a
10 waiver.

11 CHAIRMAN BURG: However, in answer to an
12 earlier question, I believe, that both you and counsel
13 said, that if they are capable of providing it, this
14 should meet the qualifications. So that might be one
15 way around that.

16 MR. MARMET: That might be one way, but it
17 sort of defeats the purpose. The purpose of these
18 rules is to make sure everybody has access to 911. And
19 it might be directed at the wrong entity. It might be
20 directed at the telephone company rather than the
21 counties.

22 CHAIRMAN BURG: But for purposes of ETC we
23 may be able to say, yes, they're capable and it's up to
24 the counties whether they take it.

25 MS. WIEST: I was referring only to

1 STATE OF SOUTH DAKOTA)
2 COUNTY OF HUGHES)

3

4 I, Lori J. Grode, RMR, Notary Public, in and
5 for the State of South Dakota, do hereby certify that
6 the above hearing, pages 1 through 47, inclusive, was
7 recorded stenographically by me and reduced to
8 typewriting.

9 I FURTHER CERTIFY that the foregoing
10 transcript of the said hearing is a true and correct
11 transcript of the stenographic notes at the time and
12 place specified hereinbefore.

13 I FURTHER CERTIFY that I am not a relative or
14 employee or attorney or counsel of any of the parties,
15 nor a relative or employee of such attorney or counsel,
16 or financially interested directly or indirectly in
17 this action.

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand and seal of office at Pierre, South Dakota, this
20 7th day of August, 1997.

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Lori J. Grode, RMR

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