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TC97-109

KC/TS

TC97-109

DOCKET NO.

In the Matter of

IN THE MATTER OF THE  
APPLICATION OF FIRSTEL, INC. TO  
OFFER NEGOTIATED RATES

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
6/25/97	Filed and docketed,
7/3/97	TC Fax filing,
3/10/98	Order approving waivers.
3/10/98	Docket Closed



TC97-109

110 South Phillips • Suite 202

Sioux Falls, SD 57104-6727

605-332-3232

Fax 605-332-8004 • 1-800-605-3232

June 20, 1997

Mr. William Bullard, Jr.  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol  
Pierre, SD 57101

RECEIVED  
JUN 25 1997  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

RE: Request of FirsTel to Offer Negotiated Rates

Dear Mr. Bullard:

FirsTel, Inc. hereby requests that the South Dakota Public Utilities Commission (Commission) waive the requirements contained in ARSD 20:10:13.02 through 20:10:12:107, inclusive, for the following reasons:

1. That the Commission has under consideration Docket TC97-032. FirsTel believes the resolution of the issues regarding tariff filings for local telecommunications services will be resolved in that docket and FirsTel agrees to make whatever filings are then required.
2. In the Agreement between US West and FirsTel there are no discounts for residential services. FirsTel's sales efforts will focus on the business community.
3. A natural safeguard exists under the contract between FirsTel and US West in that the customer is always protected by the ceiling price of US West services. For competition to exist, competitors need to be able to sell local telecommunication services.
4. The purpose of the Telecommunications Act of 1996 was to create competition in the telecommunications local exchanged market. In a competitive market place, consumers are allowed to negotiate with providers for the products and services which best meet their needs. One of those factors of negotiation is always price. If business customers are denied the opportunity to negotiate price, the full benefits of competition cannot be realized.

William Bullard  
Request of FirsTel to Offer Negotiated Rates

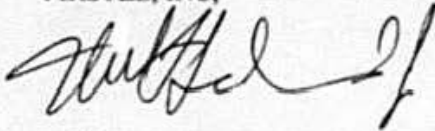
Page 2

FirsTel requests the Commission to expedite their consideration of this request of a waiver of rules.

If you have any questions or need any additional information, please contact me. Thank you for your consideration.

Sincerely,

FIRSTEL, INC.

A handwritten signature in black ink, appearing to read "Neil Schmid", written over the printed name.

Neil Schmid  
Regulatory and Operations



## **SECTION 1.0 GENERAL**

### **1.1 Purpose of the Company**


FirsTel, Inc. is an alternative Local Exchange Company offering communication services within the US West territories in South Dakota. Both by contract between FirsTel and US West and certified by the South Dakota Public Utility Commission. The Company business office is located in Sioux Falls, South Dakota.

### **TECHNICAL TERMS AND ABBREVIATION**

- Business Access Line-** The telecommunication line from the central office switching point up to and including the termination on the customer's premises in either a terminal block, or other point of termination.
- Business Customer-** A person, partnership, or a Corporation who wishes to purchase Telecommunication services for business purpose.
- Business Office-** The office of the Telephone Company which handles subscriber billing, collections and applications for service.
- Call Transfer-** Allows any incoming calls to be transferred to another number.
- Call Holding-** Allows you to place a call on hold and consult with a third party, then return to the original call
- Call Forward Busy-** Forwards calls to another number when the dialer number is busy.
- Call Forward Don't Answer-** routes calls to another line if the dialed number is not answered.
- Call Forward Variable-** Allows you to forward all incoming calls to another telephone number.
- Call Pickup-** Offers the ability to answer any line within a specified group of lines.
- Call Waiting-** A tone informs you that a second call is waiting the caller hears a ringing sound, not a busy signal.
- Caller ID-** Displays the phone number and/or name of the incoming Caller. Compatible equipment is required for this feature.
- Central Office Exchange-** The territory served by a central office or a group of central offices, and one of which may serve any part of the exchange.
- Central Office Features-** Automatic Call Back, Call Trace, Caller ID and Related Blocking Features, Distinctive Ringing/Call Waiting, Selective Call Forward, Selective Call Rejection, Dial Call Waiting, Directed Call Pickup, Distinctive Alert, Abbreviated Access, Answer Supervision, Caller Identification, Bulk Message Waiting, Message Delivery Service. This list is not all-inclusive.

Issued: June 17, 1997

Effective: June 17, 1997



Burton Thurman, President

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- Centrex 21- A Central Office based business communication service that provides capabilities similar to those offered on a Private Branch Exchange, but without requiring switching equipment on the Business Customer's premises.
- Commission- The South Dakota Public Utilities Commission. Conference Plus- Establishes a conference call within up to five other participants without the need for operator assistance.
- Continuous Redial- Automatically redials the last number dialed. If the number is busy a special tone indicates when it becomes available.
- Contract- The agreement between The Company and the Business Customer for the furnishing of Company Services.
- Customer- The person, firm or corporation responsible for the payment of charges and compliance with the regulation of the Company.
- DID- Feature that enables completion of an incoming call directly to an extension station without operator assistance.
- Digital Data Service (intrastate)- Digital transmission for transmitting data end to end within the state.
- Directory Listing- Information contained in the Telephone Company owned telephone directory, including reasonable advertising, whereby telephone users may ascertain the telephone number of other subscribers.
- Disconnection- Discontinuance of telecommunication service made at the request of the Business Customer or at the option of the Company for nonpayment of service or other valid reason, the facilities so disconnected by the Company may be made immediately available for use by another subscriber.
- Exchange- A unit established by the Company for the administration of communication service in a specified area. It consists of one or more central offices together with associated plant used in furnishing access line service in the area.
- Exchange Area- The territory served by an exchange.
- Exchange Service- The telecommunication service provided within a local calling area, or exchange area, in accordance with the tariff of US West.
- Extended Area Service- Interchange telephone service provided within calling area, exchange in accordance with the tariff of US West.
- Hunting- Forwards incoming calls to the next line in a group, hunting until an open line is reached.
- ISDN- Network architecture that enables one-to-one digital connections.
- Last Call Return- Dials the last call received, whether it was answered or not.
- Listing Local Calling Area- That area throughout which an exchange service business customer at a given rate may make a call without the payment of a toll charge. A local calling area may be made up of one or more exchange areas.
- Local 21- The same as Centrex 21 (see definition above).
- Local Telephone Service- Exchange service available within the exchange area for communication between subscribers located within that exchange area only.

Issued: June 17, 1997

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By: Fred T. Thurman, President

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- Minimum Contract Period-** The minimum length of time for which a Business Customer is obligated to pay for service, facilities, whether or not retained by the Business customer for such minimum length of time.
- Non Recurring Charge-** A one-time charge associated with certain installations, changes or transfers of services either in lieu of or in addition to recurring monthly charges.
- PBX Services-** A private switching system serving an organization, business, company, or agency and usually located on a customer premises.
- PBX Trunks-** A line that connects a private branch exchange to a central office.
- Point of Demarcation-** Point of connection to which the Company is responsible.
- Private Contracts-** The agreements between the Company and the Business Customer for the furnishing of service.
- Service Charges-** The non-refundable charges that apply to customer initiated requests for the establishment of telephone service, for the subsequent changes to that service, for reconnecting service which has been temporarily disconnected for nonpayment, or for the establishment of other miscellaneous services.
- Single Line-** A single access line servicing a business establishment.
- Speed Calling-** Allows you to dial a 1 or 2 digit code instead of dialing the complete number in order to place the call.
- Switch-** A unit of dial switching equipment which provides interconnection between access lines.
- Telecommunications Services-** The provision of facilities for the transmission and reception of messages, impressions, pictures and signals by means of electricity, electromagnetic waves or any other kind of energy, force variations or impulses, whether conveyed by cable, wire, radiation through space, or transmitted by means of other media within a specific area or between designated points.
- Termination Charge-** A special charge applied under certain conditions defined in special contract with the Business Customer when the Business Customer the expiration of the minimum contracts period terminates service. A termination charge shall be specified in the written agreement and known in advance by the Business Customer.
- Toll Trunks-** A single transmission path connecting two switching systems.
- Telephone Company-** US West Communications, Inc.
- The Company** FirsTel Inc.

Issued: June 17, 1997

Effective: June 17, 1997

  
By Fred Y. Goodman, President  
110 South Phillips, Suite 202, Sioux Falls, South Dakota 57014-6727



**FIRSTEL, INC. EXCHANGES**

Aberdeen	Hill City	Rapid City
Arlington	Huron	Redfield
Belle Fourche	Iroquois	Sioux Falls
Canton	Lake Preston	Sisseton
Cavor	Lead	Spearfish
Chamberlain	Madison	Sturgis
Colman	McIntosh	Tea
Deadwood	Milbank	Timberlake
DeSmet	Morristown	Vermillion
Elk Point	Miller	Volga
Flandreau	Mitchell	Yankton
Harrisburg	Pierre	Watertown
Hetland	Ft. Pierre	Whitewood

**SECTION 2.0 RULES AND REGULATIONS**

**2.1 Undertaking of the Company**

- 2.1.1 The Company undertakes to provide telecommunications services to Business Customers as defined in Section 1 as are furnished under the terms and subject to the conditions of the signed contract between FirsTel and US West and approved by the South Dakota Public Utilities Commission. The Company services are provided on a statewide basis in the US West territory, in the State of South Dakota.

**2.2 Limitations**

All US West Exchanges in South Dakota.

- 2.2.1 The Company reserves the right to discontinue service, or limit the use of service for non-payment of charges, or when the customer's use of a service becomes or is in violation of the law or the provisions of the tariff.
- 2.2.2 The Company offers service to all customers equally and on a Non-Discriminatory basis. Service is offered subject to the availability of the facilities and services of the Company's provider US West and the provisions of this tariff, and within good business practices of the Company.

**2.3 Liabilities of the Company**

- 2.3.1 The Customer recognizes that the Company is a reseller of US West services, and is limited to the service quality limitations offered by US West, further, the Customer will not hold The Company liable for any service, installation, repair, white pages or yellow page listings and/or any other aspect of

Issued: June 17, 1997

Effective: June 17, 1997

  
By Fred J. Thurman, President

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telecommunication services other than those liabilities as described in section 2.3.2.

- 2.3.2. The Company has no liability for damages caused by interruption, omission, delays, errors, defects in the transmission or call processing, of customer's telecommunications traffic, listing errors, other publications or mistakes by the provider. The Company's liability for such damages which may occur during the provisioning of services, but not caused by willful misconduct by the Company or its agents, in no case will exceed an amount equivalent to the proportionate charge to the customer for the period during which such errors, omissions, delays, mistakes, or defect in transmission or call processing occurred.

#### 2.4 Interruption of Service

- 2.4.1 It shall be the Business Customer's obligation to notify the Company of any interruption of service for a credit allowance. The customer should check to insure that any action or trouble within the business customer's control or equipment does not cause the trouble.
- 2.4.2 Service outage due to such failure as caused by or occurs due to Company control are limited to a credit for the outage as defined in Section 2.3.2.

#### 2.5 Deposits

- 2.5.1 The Company does not require a deposit from Business Customer's, but reserves the right to require such a deposit not to exceed two months estimated, or if known, two month's historical charges for service, whenever the financial circumstances of the customer so warrants. The Company will return any deposits required, plus the applicable 7% simple interest, after one year of consistent timely payments by the customer. Up to the full amount of a deposit shall be applied to any charges unpaid after thirty days from the invoice date.

#### 2.6 Payment and Billing

- 2.6.1 Service is provided and billed on a monthly basis. Usage charges are billed in arrears. Recurring fixed charges are billed monthly in advance.
- 2.6.2 All billings presented for payment by the Company will show the type of service rendered, the related charges, and the total bill for such services.
- 2.6.3 Bills are payable and due upon receipt. A late charge is calculated at a rate of one percent per month will be charged on any amount unpaid after thirty days from rendering.
- 2.6.4 A Bad Check Charge of \$30.00 will be added to the Business Customer's current amount due, if a Business check for payment of services is returned for any reason, such as non-sufficient funds or closed account.

Issued June 17, 1997

Effective June 17, 1997



By Eric T. Thurman, President

116 South Phillips, Suite 202, Sioux Falls, South Dakota 57014-6727



- 2.6.5 If the Company service has been discontinued for nonpayment, the Business Customer will be required to pay any unpaid balance due to the Company before service is restored.
- 2.6.6 If a Business Customer's service is disconnected for nonpayment of sum due to the Company, and wishes to reconnect service, a one time charge of \$65.00 for the re-establishment of service will be billed to the Business Customer. Payment of the re-establishment charge and any outstanding amounts will be due in full, prior to reconnection of service.

**2.7 Disconnection of Service by Business Customer**

- 2.7.1 During the disconnection process the Business is responsible for payment of any charges incurred during the relevant time period.

**2.8 Advance Payments**

- 2.8.1 The Company does not require an advance payment, but reserves the right to collect an amount not to exceed one month's estimated charges as an advance payment for service whenever the financial circumstances of the Business Customer may warrant. Such advance payment required shall be applied against the next month's charges and if necessary a new advance payment will be collected for the following month.
- 2.8.2 All "Disconnection of Service" requests by the Business Customer are subject to the terms and conditions of the Contract between the Company and the Business Customer.

**2.9 Taxes**

- 2.9.1 Federal, State, and Local taxes are separate line items and are not included in the Company's rates.

**SECTION 3.0 EXCESS CONSTRUCTION**

- 3.1 The Company will provide services only where facilities currently exist and are capable of providing such services without construction of additional facilities or enhancement of existing facilities. If the Business Customer requests service where current facilities do not exist or require upgrading, customer will be notified of related construction charges. The Business Customer may elect to order service and pay for the related construction charges, for which 100% will be due upon order.

**SECTION 4.0 DIRECTORY LISTING**

- 4.1 The Company will make a good faith effort to provide one primary listing for each main Telephone number belonging to the Business Customer. The

Issued: June 17, 1997

Effective: June 17, 1997

  
By Fred L. Thurman, President

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Company will provide one primary listing for each main telephone number belonging to the Business Customer at no charge. The Company has no liability for damages caused by errors, omissions or any other inconsistency for listing and will not be liable for any specific damages incurred by the Business Customer.

- 4.2 The Company will provide in standard format, to US West, for placement in US West directory listing database and for directory assistance purposes. The Company will also make listings available to directory publisher and other third parties. Additional terms and conditions with respect to directory listing are in the US West general exchange tariffs.
- 4.3 The Company will charge for privacy listings and premium listing e.g., additional, foreign, cross-reference, informational, etc. at US West exchange listing tariff rates.

**SECTION 5.0 PRODUCTS AND SERVICE**

5.1 The Company will make available the following US West services as defined in Section 1 Business lines, Centrex Plus Services, PBX Trunks, ISDN, DID, Frame Relay, Listing.

**SECTION 6.0 BUSINESS INQUIRIES AND COMPLAINTS**

6.1 Business inquiries or complaints regarding service or billings may be made in writing or by phone to FirsTel, Inc. at:

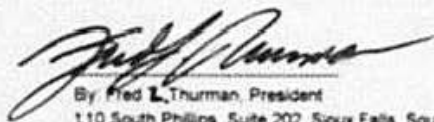
FirsTel, Inc.  
110 South Phillips, Suite 202  
Sioux Falls, South Dakota, 57104-6727  
1-800-605-3232

6.2 If the Business Customer is dissatisfied with FirsTel's response to a complaint or inquiry, they may file with the South Dakota Public Utilities Commission for resolution of the conflict. The South Dakota Public Utilities Commission can be reached at:

500 East Capitol  
Pierre, South Dakota 57501-5070  
(605) 773-3201  
(800) 332-1782

Issued: June 17, 1997

Effective: June 17, 1997



By Fred L. Thurman, President  
110 South Phillips, Suite 202, Sioux Falls, South Dakota 57014-6727



TC97-109

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605-332-3232

Fax 605-332-8004 • 1-800-605-3232

June 26, 1997

RECEIVED

JUL 01 1997

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Mr. William Bullard, Jr.  
Executive Director  
South Dakota Public Utilities Commission  
500 East Capitol  
Pierre, SD 57101

RE: Request of FirsTel to Offer Negotiated Rates

Dear Mr. Bullard:

Please disregard my letter dated June 20, 1997 regarding the above referenced subject. I misstated the ARSD codes and wish to replace that letter with this one.

FirsTel, Inc. hereby requests that the South Dakota Public Utilities Commission (Commission) waive the requirements for Certificate of Authority, Application Requirements contained in ARSD 20:10:24.02, subdivision (7- maps), and (12-cost support for rates), for the following reasons:

1. That the Commission has approved FirsTel's Docket TC97-032 on June 14, 1997.
2. In the Agreement between US West and FirsTel there are no discounts for residential services. FirsTel's sales efforts will focus on the business community.
3. A natural safeguard exists under the contract between FirsTel and US West in that the customer is always protected by the ceiling price of US West services. For competition to exist, competitors need to be able to sell local telecommunication services.
4. The purpose of the Telecommunications Act of 1996 was to create competition in the telecommunications local exchanged market. In a competitive market place, consumers are allowed to negotiate with providers for the products and services which best meet their needs. One of those factors of negotiation is always price. If business customers are denied the opportunity to negotiate price, the full benefits of competition cannot be realized.



William Bullard  
Request of FirsTel to Offer Negotiated Rates

Page 2

FirsTel requests the Commission to expedite their consideration of this request of a waiver of rules.

If you have any questions or need any additional information, please contact me. Thank you for your consideration.

Sincerely,

FIRSTEL, INC,

A handwritten signature in black ink, appearing to read "Neil Schmid", with a long horizontal flourish extending to the right.

Neil Schmid  
Regulatory and Operations

South Dakota  
Public Utilities Commission  
State Capitol 500 E. Capitol  
Pierre, SD 57501-5070  
Phone: (800) 332-1782  
Fax: (605) 773-3809

## TELECOMMUNICATIONS SERVICE FILINGS

These are the telecommunications service filings that the Commission has received for the period of:

06/27/97 through 07/03/97

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five days of this filing.

DOCKET NUMBER	TITLE/STAFF/SYNOPSIS	DATE FILED	INTERVENTION DEADLINE
<b>REQUEST FOR CERTIFICATE OF AUTHORITY</b>			
TC97-116	Application by USA Tele Corp. for a Certificate of Authority to operate as a telecommunications company within the state of South Dakota. (Staff: TS/TZ) "Applicant is a switchless reseller which intends to offer 1+ direct dialing, 800 toll free and travel card (no prepaid calling cards) service through the resale of telephone services provided by facilities-based interexchange carriers."	06/30/97	07/18/97
<b>REQUEST FOR ELIGIBLE TELECOMMUNICATIONS COMPANY STATUS</b>			
TC97-117	McCook Cooperative Telephone Company pursuant to 47 U.S.C. 214(e) and 47 CFR 54.201 hereby seeks designation as an eligible telecommunications carrier within the local exchange areas that constitute its service area in South Dakota. McCook Cooperative Telephone Company is the facilities-based local exchange carrier presently providing local exchange telecommunications services in the following exchanges in South Dakota: Canova (523), Center (247), Spencer (246) and Wintred (485). McCook Cooperative Telephone Company, to its knowledge, is the only carrier today providing local exchange telecommunications services in the above identified exchange area. (Staff: HB/CH)	06/30/97	07/18/97
TC97-121	Kadoka Telephone Company pursuant to 47 U.S.C. 214(e) and 47 CFR 54.201 hereby seeks designation as an eligible telecommunications carrier within the local exchange areas that constitute its service area in South Dakota. Kadoka Telephone Company is the facilities-based local exchange carrier presently providing local exchange telecommunications services in the following exchange: Kadoka (837). Kadoka Telephone Company, to its knowledge, is the only carrier today providing local exchange telecommunications services in the above identified exchange areas. (Staff: HB/CH)	07/03/97	07/18/97
<b>REQUEST FOR WAIVER</b>			
TC97-109	FirsTel, Inc. has filed a request that the Commission waive ARSD 20:10:24:02(7) and 20:10:24:02(12) from the requirements for Certificate of Authority. (Staff: TS/KC) Subdivision 7 is the filing of a map and subdivision 12 is cost support.	07/01/97	07/18/97
<b>NONCOMPETITIVE TELECOMMUNICATIONS FILINGS</b>			

TC97-118	In The Matter Of The Establishment Of Switched Access Rates For West River Telecommunications Cooperative, Hazen, N D (Staff: HB/KC) West River Telecommunications filed cost study revenue requirements that are included in the Local Exchange Carrier Association switched access rate filing (TC97-061). West River Telecommunications requests that the Commission allow the use of GVNW's cost study model as opposed to the Commission model for revenue requirement and rate development.	06/30/97	07/18/97
<b>FILING OF TYPE 1 PAGING AGREEMENT</b>			
TC97-119	U S WEST Communications, Inc. filed for approval by the Commission the Type 1 Paging Agreement between Community Paging Corporation and U S WEST.	06/30/97	07/18/97
<b>TELECOMMUNICATIONS INFRASTRUCTURE DOCKET OPENED</b>			
TC97-120	The 1997 South Dakota Legislature passed SDCL 49-31-60 through 49-31-68 which outline the legislative intent regarding the state's telecommunications infrastructure. These statutes are effective July 1, 1997. According to SDCL 49-31-60, "[i]t is the intent of the Legislature that South Dakota have a telecommunications infrastructure that meets the advanced communication needs of the state's individual citizens and its communities of interest, including our schools, medical facilities, businesses and all levels of government." The statutes further describe specific network requirements and deployment goals. On June 24, 1997, at its regularly scheduled meeting, the Commission considered whether to open a docket to investigate the current status of South Dakota's telecommunications infrastructure and the telecommunications companies' plans to comply with the statutes. After hearing the comments of the South Dakota Independent Telephone Coalition, U S WEST Communications, Inc., the Bureau of Information and Telecommunications, and MCI Telecommunications Corporation, the Commission unanimously voted to open an investigative docket. The Commission has jurisdiction in this matter pursuant to SDCL Chapter 49-31 and the Telecommunications Act of 1996. It is therefore ORDERED that a docket shall be opened to investigate the current status of South Dakota's telecommunications infrastructure and the telecommunications companies' plans to comply with the statutes.	Opened 07/03/97	NA

Important Notice: The Commission is compiling a list of internet addresses. If you have an internet address please notify the Commission by: E-mailing it to Terry Nepron at [terryh@pub.state.sd.us](mailto:terryh@pub.state.sd.us). Faxing the address to the Commission at 605-773-3809.



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

IN THE MATTER OF THE APPLICATION OF )      ORDER APPROVING  
FIRSTEL, INC. TO OFFER NEGOTIATED )      WAIVERS  
RATES )      TC97-109

On June 25, 1997, the Public Utilities Commission (Commission) received a filing from Firstel, Inc. (Firstel). On July 1, 1997, an amended filing was received from Firstel. In this filing, Firstel requested that the Commission approve the waiver of ARSD 20.10.24.02(7) and 20.10.24.02(12) from the requirements of its Certificate of Authority.

At its duly noticed February 24, 1998, meeting, the Commission considered whether to grant the requested waivers. ARSD 20.10.24.02(7) pertains to the geographic area in which services will be offered. As Firstel will be restricting its offerings to U S WEST territory, Staff recommended a waiver of this rule. ARSD 20.10.24.02(12) requires that cost support for rates shown in the company's tariff be filed. As Firstel is reselling U S WEST's services, Staff recommended that this rule also be waived.

The Commission has jurisdiction over this matter pursuant to SDCL 49-31-3 and ARSD 20.10.24.02. Based upon the above stated reasons, the Commission unanimously voted to approve the waivers as requested by Firstel.

It is therefore

ORDERED, that Firstel's request for a waiver of ARSD 20.10.24.02(7) and 20.10.24.02(12) as it pertains to its Certificate of Authority is hereby granted.

Dated at Pierre, South Dakota, this 10<sup>th</sup> day of March, 1998.

<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><i>Nelaine Kabis</i></u>
Date: <u>3/10/98</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

*James A. Burg*  
JAMES A. BURG, Chairman

*Pam Nelson*  
PAM NELSON, Commissioner

*Laska Schoenfelder*  
LASKA SCHOENFELDER, Commissioner