

TC97-133

DOCKET NO.

TC 97-133

**In the Matter of** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ **IN THE MATTER OF THE FILING BY**  
**CHEYENNE RIVER SIOUX TRIBE**  
**TELEPHONE AUTHORITY FOR**  
**CLARIFICATION REGARDING**  
**DESIGNATION AS AN ELIGIBLE**  
**TELECOMMUNICATIONS CARRIER**

## Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
7/17 97	Fitch gnd Requested;
7/17 97	TC for Filing,
8/17 97	Order Clarifying Procedures to Obtain Designation as an Eligible Job Candidate
8/17 97	Request Closed

TC97-133

BRUCE R. GREENE  
ELIZABETH MEYER  
SCOTT B. McLEOD  
M. CATHERINE CONDON  
ALICE E. WALKER  
TORI S. BURCH-RATES

OF COUNSEL  
PHOEBE ANNE GREYSON

RECEIVED

JUL 17 1997

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

July 14, 1997

South Dakota Public Utilities Commission  
State Capitol Building  
500 East Capitol Avenue  
Pierre, South Dakota 57501-5070

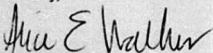
Re: In Re the Matter of the Request of Cheyenne River Sioux Tribe Telephone Authority for Clarification

Dear Commissioners:

By this letter, I am filing herewith the original and eleven copies of Cheyenne River Sioux Tribe Telephone Authority Request for Clarification Regarding Designation as Eligible Telecommunications Carrier.

Please file stamp the extra copy and return it in the self-addressed, stamped envelope enclosed for that purpose. Thank you for your attention to this matter.

Sincerely,

  
Alice E. Walker

cc: J.D. Williams  
Camron Hoseck

enc. Cheyenne River Sioux Tribe Telephone Authority Request for Clarification Regarding Designation as Eligible Telecommunications Carrier (original + 11 copies);  
SASE

JUL 17 1997

BEFORE THE PUBLIC UTILITIES  
COMMISSION OF SOUTH DAKOTASOUTH DAKOTA PUBLIC  
UTILITIES COMMISSIONIN THE MATTER OF THE REQUEST )  
OF THE CHEYENNE RIVER SIOUX )  
TRIBE TELEPHONE AUTHORITY )  
FOR CLARIFICATION )  
)  
)  
)CHEYENNE RIVER SIOUX TRIBE  
TELEPHONE AUTHORITY REQUEST  
FOR CLARIFICATION REGARDING  
DESIGNATION AS ELIGIBLE  
TELECOMMUNICATIONS CARRIER

DOCKET NO. TC97-\_\_\_\_

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The Cheyenne River Sioux Tribe Telephone Authority ("Telephone Authority") moves that the Public Utilities Commission of South Dakota ("Commission") clarify whether local exchange carriers must request that the Commission designate them as eligible telecommunications carriers ("ETCs") so that the local exchange carriers may receive federal universal service support under 47 U.S.C. § 214(e).

The Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (codified in scattered sections of 47 U.S.C.) requires in part that states designate which local exchange carriers operating telephone exchanges within state boundaries are ETCs.

A State Commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State Commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

47 U.S.C. § 214(e)(2). Paragraph 1 sets forth the requirements for an ETC:

A common carrier designated as an eligible telecommunications carrier under paragraph (2) or (3) shall be eligible to receive universal service support in accordance with section 254 of this title and shall, throughout the service area for which designated is received --

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c) of this title, either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media of general distribution.

47 U.S.C. § 214(e)(1). Accordingly, under § 214(e)(2), the Commission may determine whether common carriers meet the requirements of § 214(e)(1) in order to designate them as ETCs, or it may consider a request that the Commission designate a common carrier as an ETC, based upon the common carrier's own assertions.

In any event, unless a local exchange carrier receives a designation by the state as an ETC, the local exchange carrier may not receive federal universal service support: "After the date on which the Commission regulations implementing this section take effect, only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support." 47 U.S.C. § 254(e). In other words, Congress has placed the burden upon the Commission to designate which local exchange carriers are ETCs and thereby eligible for federal universal service support. Moreover, the Commission must designate all ETCs in South Dakota by January 1, 1998. 47 C.F.R. § 54.201(a)(1).

In light of the two options in the Telecommunications Act -- the Commission's

designation of ETCs on its own motion, or requests by individual local exchange carriers for such designation -- and in light of the requirement that local exchange carriers obtain designation as ETCs in order to receive federal universal service support, the Telephone Authority respectfully requests that the Commission issue an order clarifying the procedures local exchange carriers in South Dakota should follow in order to obtain ETC designation.

Dated this 14 day of July, 1997.

Respectfully submitted,

Scott B. McElroy  
Alice E. Walker  
Greene, Meyer & McElroy, P.C.  
1007 Pearl Street, Suite 220  
Boulder, Colorado 80302  
(303) 442-2021

By:

Alice E. Walker  
Alice E. Walker

RECEIVED

JUL 17 1997

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

IN THE MATTER OF THE SALE )  
OF CERTAIN TELEPHONE )  
EXCHANGES BY U S WEST )  
COMMUNICATIONS, INC. TO )  
CERTAIN TELECOMMUNICATIONS )  
COMPANIES IN SOUTH DAKOTA )

CERTIFICATE OF MAILING

DOCKET NO. TC 97-\_\_\_\_

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I hereby certify that I have placed a true and correct copy of the foregoing CHEYENNE RIVER SIOUX TRIBE TELEPHONE AUTHORITY REQUEST FOR CLARIFICATION REGARDING DESIGNATION AS ELIGIBLE TELECOMMUNICATIONS CARRIER, in the U.S. Mail, first-class postage prepaid thereon, on this 14 day of July, 1997, addressed to the following:

Camron Hoseck  
Staff Attorney  
South Dakota Public Utilities Commission  
500 East Capitol  
Pierre, SD 57501

Marsha Hebert

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:

**07/11/97 through 07/17/97**

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>			
TC97-132	Application by Southwestern Bell Communications Services, Inc. d/b/a Southwestern for a Certificate of Authority to operate as a telecommunications company within the state of South Dakota. (Staff: TS/TZ) "Applicant seeks statewide authority to offer a full line of inbound, outbound, conference, directory assistance, calling card, prepaid calling card, and private line services to business customers and residential customers. Initially, the Applicant will not offer alternative operator services."	07/14/97	08/01/97
<b>REQUEST FOR CLARIFICATION REGARDING DESIGNATION AS ELIGIBLE TELECOMMUNICATIONS CARRIER</b>			
TC97-133	The Cheyenne River Sioux Tribe Telephone Authority moves that the Commission clarify whether local exchange carriers must request that the Commission designate them as eligible telecommunications carriers so that the local exchange carriers may receive federal universal service support under 47 U.S.C. § 214(e). "Under § 214(e)(2), the Commission may determine whether common carriers meet the requirements of § 214(e)(1) in order to designate them as ETCs, or it may consider a request that the Commission designate a common carrier as an ETC, based upon the common carrier's own assertions. In any event, unless a local exchange carrier receives a designation by the state as an ETC, the local exchange carrier may not receive federal universal service support...In other words, Congress has placed the burden upon the Commission to designate which local exchange carriers are ETCs and thereby eligible for federal universal service support....In light of the two options in the Telecommunications Act – the Commission's designation of ETCs on its own motion, or requests by individual local exchange carriers for such designation – and in light of the requirement that local exchange carriers obtain designation as ETCs in order to receive federal universal support, the Telephone Authority respectfully requests that the Commission issue an order clarifying the procedures local exchange carriers in South Dakota should follow in order to obtain ETC designation." Interested parties may file comments with the Commission and the Telephone Authority by July 25, 1997.	07/17/97	comments due 07/25/97

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 Norum at: [terryn@pucc.state.sd.us](mailto:terryn@pucc.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 FILING BY )	ORDER CLARIFYING
CHEYENNE RIVER SIOUX TRIBE TELEPHONE )	PROCEDURES TO OBTAIN
AUTHORITY FOR CLARIFICATION )	DESIGNATION AS AN
REGARDING DESIGNATION AS AN ELIGIBLE )	ELIGIBLE
TELECOMMUNICATIONS CARRIER )	TELECOMMUNICATIONS
)	CARRIER
)	TC97-133

On July 17, 1997, the Cheyenne River Sioux Tribe Telephone Authority (CRSTTA) filed a request for clarification regarding the designation as an eligible telecommunications carrier. CRSTTA requested that the Public Utilities Commission (Commission) "clarify whether local exchange carriers must request that the Commission designate them as eligible telecommunications carriers (ETCs) so that the local exchange carriers may receive federal universal service support under 47 U.S.C. § 214(e)." CRSTTA stated that "under § 214(e)(2), the Commission may determine whether common carriers meet the requirements of § 214(e)(1) in order to designate them as ETCs, or it may consider a request that the Commission designate a common carrier as an ETC, based upon the common carrier's own assertions." CRSTTA concluded by stating that "[i]n light of the two options in the Telecommunications Act -- the Commission's designation of ETCs on its own motion, or requests by individual local exchange carriers for such designation -- and in light of the requirement that local exchange carriers obtain designation as ETCs in order to receive federal universal support, the Telephone Authority respectfully requests that the Commission issue an order clarifying the procedures local exchange carriers in South Dakota should follow in order to obtain ETC designation."

Interested parties had until July 25, 1997, to file comments with the Commission and CRSTTA. No comments were filed.

At its September 9, 1997, meeting, the Commission considered CRSTTA's request. The Commission voted to issue an order clarifying the procedures a local exchange carrier must follow in order to obtain ETC designation.

In the Federal Communications Commission's (FCC) Report and Order in CC Docket No. 96-45, In the Matter of Federal-State Board on Universal Service, the FCC promulgated rules concerning ETC designation. Under the FCC's rules, specifically 47 C.F.R. § 54.201(b), a state commission shall, upon its own motion or upon request, designate a common carrier as an ETC if it meets the requirements of paragraph (d). Paragraph (d) requires a company to provide the services that are supported by federal universal service support mechanisms and advertise the services and charges.

The services supported by the federal universal service support mechanisms are found in 47 C.F.R. 54.101(a). These services or functionalities are as follows: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equal; (4) single party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for



qualifying low-income consumers. In addition, an ETC is required to make available Lifeline and Link Up services to qualifying low-income consumers. 47 C.F.R. § 54.405; 47 C.F.R. § 54.411. The Commission must also designate an ETC's service area in accordance with 47 U.S.C. § 214(e)(5).

Thus, in order to receive designation as an ETC, a carrier must prove to the Commission that it can provide the services listed in section 54.101(a) throughout its service area prior to January 1, 1998. The carrier must also prove that it will make Lifeline and Link Up services available to qualifying low-income consumers throughout its service area consistent with any rules or orders of the FCC and the Commission.

The Commission may allow a carrier additional time to complete the network upgrades needed to provide single-party service, access to enhanced 911 service, or toll limitation. See 47 C.F.R. § 54.101(c). The carrier must petition the Commission for additional time and demonstrate to the Commission that exceptional circumstances exist in order for the Commission to grant any additional time. The carrier must also specify the exchanges it wants the Commission to designate as its service area.

With respect to the advertising requirements of 47 U.S.C. § 214(e)(1)(B), the Commission will open a rulemaking docket to promulgate rules with the specific advertising requirements an ETC will be required to follow. A carrier may file proposed rules with the Commission on or before September 29, 1997.

It is therefore

ORDERED, that carriers applying for ETC designation shall follow the procedures as outlined above.

Dated at Pierre, South Dakota, this 17<sup>th</sup> day of September, 1997.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By	<u>Nelson Jacobs</u>
Date	<u>9/17/97</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