

TC00-171

(152447 33259)

Public Utilities Commission of the State of South Dakota

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**HARRIS,
WILTSHIRE &
GRANNIS LLP**

ORIGINAL

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WASHINGTON, D.C. 20036

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ATTORNEYS AT LAW

October 13, 2000

RECEIVED

OCT 18 2000

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

VIA OVERNIGHT DELIVERY

Mr. William Bullard, Executive Director
South Dakota Public Utilities Commission
500 E. Capitol Avenue
State Capitol Building
Pierre, South Dakota 57501

Re: Application of Ionex Communications North, Inc. for an Amended Certificate of Authority to provide facilities-based local exchange service in the State of South Dakota

Dear Mr. Bullard:

Ionex Communications North, Inc. ("Ionex North")¹ hereby files this Application for an Amended Certificate of Authority to provide facilities-based local exchange service in the State of South Dakota. Ionex is a South Dakota corporation authorized to provide - and currently providing - resale local exchange and interexchange telecommunications services in South Dakota.²

Ionex North has the technical, financial, and managerial capability to add facilities-based local exchange service to its existing provision of resale service to South Dakota customers. Ionex North holds authorizations to provide local exchange service in Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, North Dakota, and Wyoming. Ionex North is wholly owned by Ionex Telecommunications, Inc., whose other operating subsidiaries are authorized to provide local exchange service in additional states. Ionex North and Ionex Telecommunications, Inc. are run by a team of experienced telecommunications executives who have distinguished themselves in executive positions at AT&T, Sprint, and Level 3.

¹ Ionex North was formerly named FirsTel, Inc. FirsTel amended its Articles of Incorporation to change its name to Ionex Communications North, Inc. on March 27, 2000, and a Certificate of Amendment was issued by the Office of the Secretary of State of South Dakota on March 30, 2000. This Commission was notified of the name change by letter received on April 13, 2000.

² See Application of FirsTel, Inc. for an Amended Certificate of Authority to Provide Local Exchange Service in South Dakota, Final Order and Decision Granting an Amended Certificate of Authority, Docket No. TC00-001 (Oct. 21, 1999), attached hereto as Exhibit A; Application for a Certificate of Authority from FirsTel, Inc. to Provide Service as an Interexchange Reseller within the State of South Dakota, Order Granting Certificate of Authority, Docket No. TC 93-170 (Oct. 13, 1993), attached hereto as Exhibit B.

Ionex North has already entered into an agreement for interconnection, resale, and unbundled network elements with US West Communications, Inc., which has been approved by this Commission.³ Ionex North has acquired its own equipment, including Digital Subscriber Loop Multiplexer equipment and Asynchronous Transfer Mode edge switches, which, contingent upon approval of this Application, Ionex will use to provide facilities-based local exchange telecommunications services in South Dakota. The equipment is expected to be collocated in Qwest's central offices in Sioux Falls.

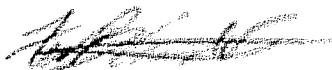
Granting Ionex North authority to provide facilities-based local exchange services in South Dakota will serve the public interest and offer benefits to South Dakota consumers. The presence of another local exchange carrier with its own facilities will provide consumer choice, promote competition, and likely result in the reduction of consumer costs and the stimulation of additional telecommunications services. The provision of facilities-based services by Ionex North will not adversely impact the quality of service or rates offered to the company's existing customers.

Ionex North is not seeking an amendment to the geographic area in which it provides local exchange services, and Ionex North acknowledges that, as set forth in its existing certificate to provide resale local exchange service, it is not authorized to provide local exchange service in rural service areas of South Dakota.

We have been advised by Commission staff that, because the Commission's current practice is not to distinguish between "resale only" and "facilities-based" in granting certificates of authority to provide local exchange service, this letter Application is in the appropriate form to request an amendment to Ionex North's existing local exchange certificate. However, as appropriate or necessary, Ionex North hereby requests a waiver of the formal application requirements set forth in ARSD 20:10:24:02, 20:10:32:03, and 20:10:32:04.

An original and 10 copies of this letter Application are enclosed for filing. Please date stamp the enclosed extra copy of this letter Application and return it in the self-addressed, stamped envelope provided. Should you have any questions regarding this application, please contact us.

Respectfully submitted,



Jonathan B. Mirsky
Fred B. Campbell, Jr.*

Counsel to Ionex Communications North, Inc.

Enclosures

cc: Harlan Best, South Dakota PSC
Sue Weiske, General Counsel, Ionex North

³ Filing by U S West Communications, Inc. for Approval of an Agreement for Interconnection, Resale, and Unbundled Elements between Advanced Communications Group, Inc. and U S West Communications, Inc., Order Approving Adoption of Agreement, Docket No. TC98-203 (Sep. 14, 1999), attached hereto as Exhibit C.

* Member of the Nebraska bar; not admitted to practice in the District of Columbia.

EXHIBIT A

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

AMENDED CERTIFICATE OF AUTHORITY

To Conduct Business As A Telecommunications Company
Within The State Of South Dakota as authorized by the Final Order
and Decision Granting an Amended Certificate of Authority dated
10/22/96

— Authority was Granted October 3, 1996
Docket No. TC96-083

This is to certify that

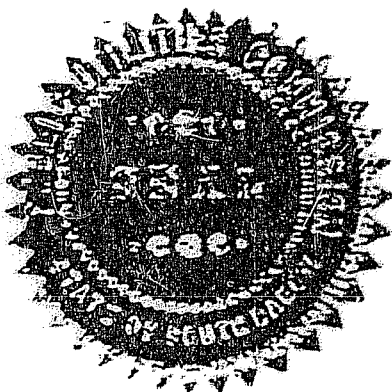
FIRSTEL, INC.


is authorized to provide telecommunications services in South Dakota.

This certificate is issued in accordance with SDCL 49-31-3 and A952
20:10:24:02, and is subject to all of the conditions and limitations contained in
the rules and statutes governing its conduct of offering telecommunications
services.

Dated at Pierre, South Dakota, this 22nd day of October 1996.

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION:




KENNETH STOFFERAHN, Chairman


JAMES A. BURG, Commissioner


LASKA SCHOENFELDER, Commissioner

78

NEXT

DOCUMENT (S)

BEST IMAGE

POSSIBLE

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION OF
FIRSTEL, INC. FOR AN AMENDED
CERTIFICATE OF AUTHORITY TO PROVIDE
LOCAL EXCHANGE SERVICE IN SOUTH
DAKOTA

) FINAL ORDER AND
) DECISION GRANTING AN
) AMENDED CERTIFICATE OF
) AUTHORITY, NOTICE OF
) ENTRY OF JUDGMENT
)
TC96-063

On May 16, 1996, the Public Utilities Commission (Commission) received an application from Firstel, Inc. (FIRSTEL) to amend its Certificate of Authority to provide local exchange service within the State of South Dakota. FIRSTEL proposed to provide local exchange service on a resale of facilities basis.

On May 16, 1996, the Commission electronically transmitted notice of the filing and its intervention deadline of May 31, 1996, to interested individuals and entities.

By Order dated June 17, 1996, Petitions to Intervene were granted to the South Dakota Independent Telephone Coalition (SDITC), Dakota Cooperative Telecommunications, Inc. (DCTI), and U S WEST Communications, Inc. (U S WEST).

By Order dated July 19, 1996, the Commission set the hearing to follow after hearings beginning July 31, 1996, at the State Capitol, Room LCR-1, Pierre, South Dakota. The hearing on this application was held on August 1, 1996. A briefing schedule was set following the hearing. At an ad hoc meeting of October 3, 1996, the Commission unanimously approved FIRSTEL's application for an Amended Certificate of Authority.

The Commission having reviewed the evidence of record and being fully informed on the matter makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

On May 16, 1996, FIRSTEL applied to the Commission for an Amended Certificate of Authority to provide statewide local exchange service on a resale of facilities basis. Exhibit 1. However, Fred Thurman, President of FIRSTEL, testified that it intends to offer local exchange service only on a resale basis. Exhibit 2. Testimony of Fred Thurman at page 2, lines 20-21, and page 20, lines 6-14.

ii

The Commission held a prehearing conference on Tuesday, May 22, 1996, at 10:00 a.m. at the State Capitol, Pierre, South Dakota. The Commission heard arguments concerning the issues presented by the applications to provide local exchange service. Specifically, the Commission heard arguments concerning the scope of the hearings, whether the applications for local exchange certification should be consolidated, and how to proceed with the applications.

iii

On June 26, 1996, the Commission issued an Order Regarding Status of Hearings for and Notice of Procedural Schedule which provided in part as follows:

On June 24, 1996, at an ad hoc meeting, the Commission considered how to proceed in these dockets. The Commission ruled that the Commission

may grant a company statewide certification to provide local exchange services. However, with respect to rural telephone companies, a competing provider of local exchange services will have to come before the Commission in another proceeding before being able to provide service in that rural service area pursuant to 47 U.S.C. § 253(f) which allows the Commission to require a company that seeks to provide service in a rural service area to meet the requirements in 47 U.S.C. § 214(a)(1) for designation as an eligible telecommunications carrier. In addition, the granting of statewide certification will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f). Finally, the Commission may also need to consider 49-31-21.

The Commission also ordered that the applications would not be consolidated.

IV

FIRSTEL has shown that it has sufficient financial capabilities to provide local exchange services. FIRSTEL's financial statements, filed as confidential, demonstrate its financial capabilities to provide local exchange services within this state. Exhibit 1; Exhibit 2, Testimony of Fred Thurman at page 5, lines 12-18. Harlan Best, testifying on behalf of Commission Staff, stated that the financial information provided by FIRSTEL showed that FIRSTEL was operating in a positive financial position. Exhibit 3, Testimony of Harlan Best at page 4, lines 5-8.

V

FIRSTEL has shown that it has sufficient management capabilities to offer local exchange telecommunications services. Exhibit 1; and Exhibit 2, Testimony of Fred Thurman at page 5 beginning at line 19 to page 6, line 3.

VI

FIRSTEL has shown that it has sufficient technical capabilities to provide local exchange service. Exhibit 1; and Exhibit 2, Testimony of Fred Thurman at page 5, lines 4-15.

VII

Harlan Best, testifying on behalf of the Commission Staff, recommended that FIRSTEL be granted an Amended Certificate of Authority to provide local exchange service. *Id.* at page 6, lines 6-8.

VIII

None of the intervenors presented evidence contesting FIRSTEL's financial, managerial, or technical ability to provide local exchange service. Exhibits 4 and 5.

IX

Pursuant to the Federal Telecommunications Act of 1995, FIRSTEL intends to negotiate with U S WEST concerning the operational arrangements necessary for FIRSTEL to provide local exchange service to South Dakota customers. Exhibit 2, Testimony of Fred Thurman at page 7, lines 12-17. FIRSTEL intends to provide local exchange services on a resale basis. *Id.* at lines 18-21. The exact nature and extent of FIRSTEL's local service offering will be known only after negotiations are completed. *Id.* at lines 17-19.

U S WEST currently has entered into contracts to sell eight of its exchanges. Exhibit 4, Testimony of James Fischer, at page 10, lines 3-11; see also Docket TC96-125, In the Matter of the Joint Application of U S WEST Communications, Inc., Golden West Telecommunications Cooperative, Hanson Communications, Inc. and Ballic Telecommunications Cooperative Regarding the Sale of Eight Telephone Exchanges by U S WEST Communications, Inc. SDITC, through its witness James Fischer, requested that if any carrier wished to offer service in any of the eight exchanges it should separately petition the Commission pursuant to its Order Regarding Scope of Hearings. In the alternative, SDITC asked that the Commission require any of the carriers wishing to serve any of the eight exchanges to satisfy the obligations of an eligible telecommunications carrier if the sale is finalized. Exhibit 4, Testimony of James Fischer at page 10, lines 14-15. The Commission denies SDITC's request, since at this time, those exchanges are still owned and operated by U S WEST and therefore are not owned by rural telephone companies as defined under the Federal Telecommunications Act. See, 47 U.S.C. § 153. Therefore, the provisions in the Act relating to rural telephone companies are not currently applicable to these exchanges.

XI

The Commission finds that FIRSTEL has not fully complied with subparagraphs (5), (6), (7), and (12) pursuant to ARSD 20:10:24:02. However, pursuant to the authority under that rule, the Commission finds good cause to waive compliance with these subparagraphs because some of the information required is dependent on the outcome of negotiations or arbitrations between FIRSTEL and incumbent local exchange carriers.

XII

U S WEST, through its witness Jon Lehner, asked the Commission to make a finding on what regulatory requirements apply to FIRSTEL or to any other competitive local exchange provider offering local exchange service in U S WEST's service areas. Exhibit 5, Testimony of Jon Lehner at page 8, lines 16-25. The Commission declines at this time to state how competitive local exchange providers will be regulated pursuant to federal and state law. The Commission will decide the regulation of local exchange providers in Docket TC96-153, In the Matter of the Investigation of Local Competition Issues. This will allow all parties that seek to provide local exchange service the opportunity to comment on this issue.

XIII

Commission Staff, through its witness Harlan Best, requested that the Commission action on anti-slamming requirements, with the loss of the applicant's Certificate of Authority if too many slamming complaints were received. Exhibit 3, Testimony of Harlan Best at page 9, lines 8-11. The Commission declines to adopt the staff's proposed slamming restrictions. The Commission will decide the slamming issue in Docket TC96-153, In the Matter of the Investigation of Local Competition Issues. This will allow all parties that seek to provide local exchange service the opportunity to comment on the slamming issue.

XIV

The Commission rejects the proposed Findings of Fact and Conclusions of Law submitted by the parties.

CONCLUSIONS OF LAW

I

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 17-31 and the Telecommunications Act of 1996.

II

Pursuant to SDCL 49-31-3, the Commission finds that FIRSTEL has met its burden of proof in showing that it has sufficient technical, financial, and managerial capabilities to provide local exchange services in the State of South Dakota.

III

The Commission grants FIRSTEL a statewide Amended Certificate of Authority to provide local exchange services on a resale basis. However, with respect to rural telephone companies, FIRSTEL will have to come before the Commission in another proceeding before being able to provide service in that rural service area pursuant to 47 U.S.C. § 253(f) which allows the Commission to require a company that seeks to provide service in a rural service area to meet the requirements in 47 U.S.C. § 214(e)(1) for designation as an eligible telecommunications carrier. In addition, the granting of statewide certification will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f).

IV

The Commission declines to apply the exception for rural telephone companies as listed in Conclusion of Law III to the eight exchanges U S WEST has proposed to sell to other local exchange carriers in South Dakota. The Commission finds that those exchanges are not currently owned and operated by a rural telephone company as defined in 47 U.S.C. § 153. Therefore, the provisions in the Federal Telecommunications Act relating to rural telephone companies are not currently applicable to these exchanges.

V

The Commission revises the language in its previous Order Regarding Scope of Hearings and deletes the final sentence which states that the Commission may also need to consider SDCL 49-31-21 because the Commission finds that this statute has been preempted by the Federal Telecommunications Act.

VI

Pursuant to ARSD 20:10:24:02, the Commission finds good cause to waive subparagraphs (5), (6), (7), and (12) because some of the information required by these subparagraphs is dependent on the outcome of negotiations or arbitrations between FIRSTEL and local exchange carriers.

VII

The Commission will decide the issue of how local exchange providers will be regulated pursuant to state and federal law, in Docket TC96-153, in the Matter of the Investigation of Local Competition Issues.

VIII

The Commission declines to adopt Staff's proposed slamming restrictions. The Commission will consider slamming restrictions in Docket TC96-153, in the Matter of the Investigation of Local Competition Issues.

IX

The Commission rejects the proposed Findings of Fact and Conclusions of Law submitted by the parties.

It is therefore

ORDERED, that FIRSTEL's application for an Amended Certificate of Authority to provide local exchange service is granted; and it is

FURTHER ORDERED, that the Commission grants FIRSTEL statewide authority to provide local exchange service, subject to the Commission's restriction with respect to rural telephone companies; and it is

FURTHER ORDERED, that the Commission finds good cause to waive subparagraphs (5), (6), (7), and (12) of ARSD 20:10:24:02.

PLEASE TAKE NOTICE that this Final Decision and Order in Docket T055-083 was duly entered on the 22nd day of October, 1996.

Pursuant to SDCL 1-25-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

Dated at Pierre, South Dakota, this 22nd day of October, 1996.

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: Delaine Kalbo

Date: 10/22/96

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION

Kenneth Stoffbrahn
KENNETH STOFFBRAHN, Chairman

James A. Borg
JAMES A. BORG, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

EXHIBIT B

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

CERTIFICATE OF AUTHORITY To Conduct Business As A Telecommunications Company Within The State Of South Dakota

Authority was Granted October 12, 1993
Docket #: TC93-120

This is to certify that

FIRSTEL, INC.

is authorized to provide telecommunications services in South Dakota.

This certificate is issued in accordance with SDCL 49-31-3 and ARSD 20:10:24:02, and is subject to all of the conditions and limitations contained in the rules and statutes governing its conduct of offering telecommunications services.

Dated at Pierre, South Dakota, this 13th day of October, 1993.



SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION:

Lark Schoenfelder
LARKA SCHOENFELDER, Chairman

Kenneth Stofferahn
KENNETH STOFFERAHN, Commissioner

James A. Burg
JAMES A. BURG, Commissioner

OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION FOR
A CERTIFICATE OF AUTHORITY FROM
FIRSTEL, INC. TO PROVIDE SERVICE AS AN
INTEREXCHANGE RESELLER WITHIN THE
STATE OF SOUTH DAKOTA.

ORDER GRANTING
CERTIFICATE OF
AUTHORITY

TC93-120

On September 2, 1993, the Public Utilities Commission (Commission), in accordance with SDCL 49-31-3 and ARSD 20:10:24:02, received an application for a certificate of authority from FirstTel, Inc. (FirstTel).

FirstTel's principal office and switching equipment is located in Sioux Falls, South Dakota. Internal bills will be generated from the Sioux Falls office and FirstTel has four customer service representatives. The company's underlying carriers are AT&T, MCI, and Witel. FirstTel will focus on business customers. A proposed tariff was filed by FirstTel. The Commission has classified long distance service as fully competitive.

On September 2, 1993, the Commission faxed notice of the filing and the intervention deadline of September 17, 1993, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled October 5, 1993, meeting, the Commission considered FirstTel's request for a certificate of authority. Commission Staff recommended granting a certificate of authority.

The Commission finds that it has jurisdiction over this matter pursuant to Chapter 49-31, specifically 49-31-3 and ARSD 20:10:24:02 and 20:10:24:03. The Commission finds that FirstTel has met the legal requirements established for the granting of a certificate of authority. FirstTel has, in accordance with SDCL 49-31-3, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota. The Commission approves FirstTel's application for a certificate of authority. As the Commission's final decision in this matter, it is therefore

ORDERED, that FirstTel's application for a certificate of authority is hereby granted.

FURTHER ORDERED, that FirstTel shall file informational copies of tariff changes with the Commission as the changes occur.

Dated at Pierre, South Dakota, this 12th day of October, 1993.

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 Robert R. Zell

Date: 10/12/93

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Laska Schoenfelder
LASKA SCHOENFELDER, Chairman

Kenneth Stofferahn
KENNETH STOFFERAHN, Commissioner

James A. Burg
JAMES A. BURG, Commissioner



South Dakota

Public Utilities Commission

State Capitol, Pierre, South Dakota 57501-5070

October 13, 1993

Richard S. Law
110 S. Phillips, Ste 202
Sioux Falls, SD 57102

RE: FIRSTEL, INC. (UTC93-120)

Dear Mr. Law:

Please find enclosed your Certificate of Authority as a South Dakota telecommunications company. This certificate shows that your company has been approved by the Public Utilities Commission (Commission) to provide intrastate telecommunications services in the State of South Dakota. Each company certified by the Commission is required to demonstrate sufficient technical, financial, and managerial capability to offer telecommunications services in South Dakota.

Administrative Rule 20:10:24:04 requires that each company submit the following information on May 1 of each year from the preceding calendar year:

- (1) A report on its revenues resulting from operations in this state, a balance sheet, an income statement, and a statement of any changes relating to the financial position of the telecommunications company relating to operations of the company in South Dakota. The report shall identify the locations where any working papers supporting the report can be reviewed.
- (2) A report identifying the exchanges, routes, or other geographic areas of this state where it is providing or expects to provide services. The report shall include the number and type of customers being served, if the company keeps such records.

Pursuant to SDCL Chapter 49-1A, on July 1 of each year, each company certified is required to file with the Commission, on forms provided by the Commission, the amount of its gross receipts derived from customers within South Dakota during the preceding calendar year. SDCL 49-1A-2 levies the annual intrastate Gross Receipts Tax. This tax of .5015 is due and payable on July 1 of each year.

It is also very important for each company to keep the Commission updated on information relating to the company's address, phone numbers, and contact people such as officers, CEOs, managers, and customer service representatives. If ownership of the company is transferred, the Certificate of Authority must be returned to the Public Utilities Commission. The Certificate is NOT transferable.

All telecommunications companies should be familiar with the Administrative Rules applicable to the regulation of telecommunications services in South Dakota. If you do not have a copy of these rules, they can be obtained by checking the third box on the enclosed QUESTIONNAIRE and returning it to the Commission. You may also use the questionnaire to request the weekly listing of all telecommunications filings submitted with the Commission, and for requesting Agendas and Minutes of the Commission meetings. If you have any questions or concerns, please contact Rebecca Zebroski at (605) 773-3705.

Sincerely,


MARSHALL DAMGAARD
Executive Director

South Dakota Telephone (605) 773-3301 • Capital Fax (605) 773-1404 • Consumer Complaints Helpline (605) 773-3111

TDY Through Relay South Dakota 1-800-577-0003

Transportation Warehouse Division - Corner of Capitol & Nicollet (605) 773-3232 • Transportation Warehouse Fax (605) 773-3233



EXHIBIT C

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

IN THE MATTER OF THE FILING BY U S WEST)
COMMUNICATIONS, INC. FOR APPROVAL OF)
AN AGREEMENT FOR INTERCONNECTION,)
RESALE, AND UNBUNDLED ELEMENTS)
BETWEEN ADVANCED COMMUNICATIONS)
GROUP, INC. AND U S WEST)
COMMUNICATIONS, INC.)

**ORDER APPROVING
ADOPTION OF AGREEMENT**

TC98-203

On November 19, 1998, U S WEST Communications, Inc. (U S WEST) and Advanced Communications Group, Inc. (Advanced) filed a negotiated agreement for interconnection, resale and unbundled elements with the South Dakota Public Utilities Commission (Commission).

On November 19, 1998, the Commission electronically transmitted notice of this filing to interested individuals and entities. The notice stated that any person wishing to comment on the agreement had until December 14, 1998, to do so. Commission staff filed its Analysis and Recommendation on November 20, 1998.

At its duly noticed August 17, 1999, meeting, the Commission considered what action to take in this matter. The matter was deferred until the September 8, 1999, regularly scheduled meeting. At this meeting, it was represented to the Commission by representatives of Advanced and Commission Staff Counsel Hoseck that an assignment of the agreement had taken place from Advanced to FirsTel, Inc. With this assignment, Staff Counsel recommended approval of the agreement.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, and the Federal Telecommunications Act of 1996, more specifically 47 U.S.C. Section 252(e). The Commission voted to approve adoption of the agreement. It is therefore

ORDERED, that the Commission approves the agreement as negotiated between U S WEST and FirsTel, Inc., as successor in interest to Advanced, and it is further

ORDERED, that the docket be closed.

Dated at Pierre, South Dakota, this 14th day of September, 1999.

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 Melanie Kelso

Date 9/15/99

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

VERIFICATION

STATE OF TEXAS)
) SS:
COUNTY OF DALLAS)

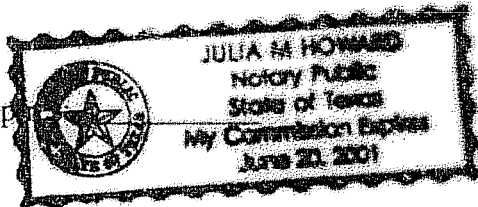
I, Sue E. Weiske, declare under penalty of perjury that I am General Counsel of Jones Telecommunications North, Inc., Applicant in this proceeding; that I have read the foregoing Application and know the contents thereof; and that the same are true and correct to the best of my knowledge, information or belief.

By: Sue E. Weiske
Sue E. Weiske, General Counsel
IONEX COMMUNICATIONS NORTH, INC.

Subscribed and sworn to before me
this 10th day of October, 2000.

Julia M. Howard
Notary Public

My Commission Expires: 01/01/2011



WEEKLY FILINGS

For the Period of October 12 2000 through October 18, 2000

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

Phone: 605-773-3705 Fax: 605-773-3809

CONSUMER COMPLAINTS

CT00-106 In the Matter of the Complaint filed by Bill and Bev Gallagher, Stephen, South Dakota, against Excel Telecommunications, Inc. Regarding Unauthorized Switching of Services and Double Billing.

The Complainants indicate that for several months they have been double billed by Excel and Midstate for the same calls. They did not authorize Excel. They are seeking appropriate remedies.

Staff Analyst: Leni Healy
Staff Attorney: Karen Cremer
Date Docketed: 10/16/00
Intervention Deadline: NA

CT00-107 In the Matter of the Complaint filed by Amy and Craig Johnson, Sioux Falls, South Dakota, against MCI WorldCom Regarding Unauthorized Switching of Services.

The Complainants allege that they did not authorize MCI for services.

Staff Analyst: Leni Healy
Staff Attorney: Karen Cremer
Date Docketed: 10/16/00
Intervention Deadline: NA

ELECTRIC

EL00-030 In the Matter of the Petition for Declaratory Ruling of West River Electric Association, Inc. on Whether a Proposed Transmission Line Meets the Definition of SDCL 49-41B-2.1.

West River Electric Association, Inc. (WREA) is proposing to construct a 115 kilovolt transmission line north of Rapid City, South Dakota. WREA has determined that it needs to obtain a 115 kilovolt power connection from Western Area Power Administration and run it into a switchyard where WREA would then take the 115 kilovolt line out of the switchyard and run it approximately 2 miles to a distribution substation. WREA is seeking a declaratory ruling from the Commission as to whether or not the proposed project falls within the SDCL 49-41B-2.1 definition of a transmission line and associated facility, thereby requiring a South Dakota Public Utilities Commission permit.

Staff Analyst: Michele Farris
Staff Attorney: Karen Cremer
Date Docketed: 10/12/00
Intervention Deadline: 10/27/00

TELECOMMUNICATIONS

TC00-171 In the Matter of the Application of Ionex Communications North, Inc. for an Amended Certificate of Authority to Include Providing Facilities-Based Local Exchange Services in South Dakota.

Ionex Communications North, Inc. (Ionex) is seeking an amended Certificate of Authority to provide facilities-based local exchange service in South Dakota. Ionex is a South Dakota corporation authorized to provide - and currently is providing - resale local exchange and interexchange telecommunications services in the state.

Staff Analyst: Heather Forney
Staff Attorney: Kelly Frazier
Date Docketed: 10/16/00
Intervention Deadline: 11/03/00

TC00-172 In the Matter of the Filing by Qwest Corporation for Approval of Revisions to its Access Service Tariff.

Qwest Corporation has filed revised "language in the intrastate Switched Access Tariff to be consistent with the changes to the Interstate Switched Access Tariff, related to direct-trunk and tandem-switched routed traffic as a result of the FCC's 1996 Access Reform local transport restructure. As a result of that restructure, interexchange carriers are required to purchase direct-trunk transport between the service wire center and the access tandem, removing the option to purchase either tandem-switched transport or direct-trunk transport between these two points. When interstate and intrastate traffic is routed over the same facility, the changes made to interstate switched access also apply to intrastate switched access. The ... revised language changes provide consistency between the state and federal switched access services for direct-trunk and tandem-switched traffic."

Staff Analyst: Harlan Best
Staff Attorney: Kelly Frazier
Date Docketed: 10/17/00
Intervention Deadline: 11/03/00

TC00-173 In the Matter of the Application of Legacy Long Distance International, Inc. for a Certificate of Authority to Provide Telecommunications Services in South Dakota.

Legacy Long Distance International, Inc. is seeking a Certificate of Authority to provide interexchange telecommunication services in South Dakota. The applicant is a reseller that intends to offer presubscribed outbound, toll free inbound, travel card and operator assisted services to both residential and business customers.

Staff Analyst: Keith Senger
Staff Attorney: Kelly Frazier
Date Docketed: 10/17/00
Intervention Deadline: 11/03/00

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION OF IONEX COMMUNICATIONS NORTH, INC. FOR AN AMENDED CERTIFICATE OF AUTHORITY TO INCLUDE PROVIDING FACILITIES-BASED LOCAL EXCHANGE SERVICES IN SOUTH DAKOTA.

Docket No. TCM-171
PETITION TO INTERVENE

SULLY BUTTES TELEPHONE COOPERATIVE, INC. ("Sully Buttes") hereby petitions the Commission for intervention in the above-captioned proceeding, pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03, and 20:10:01:15.05. In support of this Petition, Sully Buttes states as follows:

1. Sully Buttes is the incumbent local exchange carrier currently providing telecommunications services in approximately 25 exchanges across the state of South Dakota. Sully Buttes' headquarters is located at 218 Commercial Ave. SE, Highmore, South Dakota 57345.
2. Sully Buttes is also a "rural telephone company" as defined in 47 USC § 153(37).
3. On or about July 23, 1999, Sully Buttes entered into a Purchase Agreement with U S West (now Qwest) for purchase by Sully Buttes of the Sisseton, South Dakota, Exchange. Closing of the sale of the Sisseton Exchange is scheduled for November 30, 2000.

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

4. Sully Buttes does not have specific information as to what services Ionex Communications North, Inc. (Ionex) is currently providing in the state of South Dakota; however, the application of Ionex for an amended certificate of authority to provide facilities-based local exchange service in South Dakota indicates that Ionex wishes to expand the scope of its services in South Dakota.


5. Because of Sully Buttes' status as an incumbent LEC and as a rural telephone company, and because Sully Buttes will be operating as a local exchange company in the Sisseton Exchange after November 30, 2000, Sully Buttes' interests will be affected by this docket.

6. With the sale of the Sisseton Exchange from Qwest to Sully Buttes, the Sisseton Exchange will fall into the category of a rural service area, served by a rural telephone company.

7. Sully Buttes is especially concerned that any action taken in this docket be consistent with and not hinder or otherwise affect the Commission's ability under the Federal Telecommunications Act to appropriately condition competitive entry into service areas operated by rural telephone companies.

Sully Buttes respectfully requests permission to intervene and an opportunity to be heard in this docket.

DATED this 3rd day of November, 2000.


Darla Pollman Rogers
Meyer & Rogers
P. O. Box 1117
Pierre, South Dakota 57501
Attorney for Sully Buttes

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served a copy of the foregoing **PETITION TO INTERVENE** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to said addressees, to-wit:

Jonathan B. Mirsky
Fred B. Campbell, Jr.
Attorneys at Law
Harris, Wiltshire & Grannis LLP
1200 Eighteenth Street N.W.
Washington, DC 20036

Dated this 3rd day of November, 2000.


Darla Pollman Rogers
MEYER & ROGERS
P. O. Box 1117
Pierre, South Dakota 57501
Attorney for Sully Buttes

IN THE MATTER OF THE APPLICATION OF)	ORDER GRANTING
IONEX COMMUNICATIONS NORTH, INC. FOR)	INTERVENTION
AN AMENDED CERTIFICATE OF AUTHORITY)	
TO INCLUDE PROVIDING FACILITIES-BASED)	TC00-171
LOCAL EXCHANGE SERVICES IN SOUTH)	
DAKOTA)	

LASKA SCHOENFELDER, Commission

**HARRIS,
WILTSHIRE &
GRANNIS LLP**

1700 GORTON STREET, NW
WASHINGTON, DC 20004

TEL 202.738.1300 FAX 202.738.1302
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ATTORNEYS AT LAW

December 7, 2000

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DEC 08 2000

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

VIA FEDERAL EXPRESS

Ms. Heather K. Forney, Utility Analyst
South Dakota Public Utilities Commission
500 E. Capitol Avenue
State Capitol Building
Pierre, South Dakota 57501

Re: TC00-171; In the Matter of the Application of Ionex
Communications North, Inc. for an Amended Certificate of
Authority to Provide Facilities-Based Local Exchange Service in
the State of South Dakota

Dear Ms. Forney:

Enclosed for filing please find an original Joint Stipulation executed by the parties to the above-captioned proceeding and ten copies. An original and one copy of this letter are enclosed. Please date stamp the enclosed extra copy and return it in the self-addressed, stamped envelope provided. Should you have any questions regarding the Joint Stipulation, please do not hesitate to contact the undersigned.

Very truly yours,



Jonathan B. Mirsky
Fred B. Campbell, Jr.
Counsel to Ionex Communications North, Inc.

Enclosure

cc: Sue E. Weiske, General Counsel, Ionex Communications North, Inc.
Darla Pollman Rogers, esq.

DEC 1 8 2000

Before the
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Application of

DOCKET NO. TCM-171

IONEX COMMUNICATIONS
NORTH, INC.

*for an amended certificate of authority to
provide facilities-based local exchange
service in the State of South Dakota*

JOINT STIPULATION FOR
DISMISSAL OF PETITION TO
INTERVENE

Ionex Communications North, Inc. ("Ionex") and Sully Buttes Telephone Cooperative

Inc. ("Sully Buttes"), by and through their respective attorneys, stipulate as follows


1. Sully Buttes is party to an agreement to acquire the Sisseton exchange from Qwest Corporation, Inc. The acquisition was completed on November 30, 2000, and Sully Buttes took possession of the Sisseton exchange on December 1, 2000.
2. Ionex is currently serving a limited number of resale customers in the Sisseton exchange. Sully Buttes hereby agrees that, following the acquisition by Sully Buttes of the Sisseton exchange, Ionex will be permitted to continue to provide resale service in the Sisseton exchange to its resale customers in the Sisseton exchange existing as of December 1, 2000 (the "Resale Customers"). Sully Buttes hereby agrees to continue to make available to Ionex for resale to the Resale Customers the telecommunications services of Sully Buttes in the Sisseton exchange, on terms and conditions that are reasonable and non-discriminatory, as negotiated in good faith between Ionex and Sully Buttes.
3. Ionex hereby agrees that it will not provide any facilities-based local exchange service in the Sisseton exchange and that it will not provide resale service in the Sisseton exchange to any customers other than the Resale Customers, unless and until Ionex is specifically authorized to provide such facilities-based or resale services in the Sisseton exchange by the South Dakota Public Utilities Commission upon application thereto or is otherwise permitted to do so by law.
4. Ionex hereby agrees that it will not provide any local exchange service in any exchanges (other than to Resale Customers in the Sisseton exchange) wherein Sully Buttes is currently providing local exchange service as a "rural telephone company" (as defined in Section 153(37) of Title 47 of the U.S. Code, 47 U.S.C. § 153(37)) unless and until Ionex is specifically authorized to provide such services in any such exchanges by the South Dakota Public Utilities Commission pursuant to the provisions of Section 231(h) of the Communications Act, as amended, or any successor statute thereto, or is otherwise permitted to do so by law.
5. Ionex further agrees that any authority to provide resold or facilities-based local exchange service conferred by the amended certificate sought in this proceeding or this Joint Stipulation shall not authorize the provision of service to any exchanges wherein Sully

Buttes is currently providing service as a "rural telephone company," including the Sisseton exchange, except as set forth in Paragraphs 2 and 3 herein

6. Sully Buttes hereby dismisses its Petition to Intervene in the above-captioned proceeding.
7. Ionex hereby acknowledges that by dismissing its Petition to Intervene, Sully Buttes does not waive or otherwise prejudice any right to intervene in any future proceeding wherein Ionex seeks authority to provide local exchange service in the State of South Dakota. Ionex agrees that its continued provision of resale services to the Resale Customers as set forth herein is not intended to affect the status of Sully Buttes as a "rural telephone company" or "eligible telecommunications carrier" serving a rural study area. Ionex further agrees that this Joint Stipulation shall not affect the ability of Sully Buttes to seek a modification of its duties under Section 251(b) of the Telecommunications Act of 1996 by seeking authorization therefor from the South Dakota Public Utilities Commission, and Sully Buttes agrees that this Joint Stipulation shall not limit or prejudice the ability of Ionex to intervene in any such proceeding for modification.
8. Ionex and Sully Buttes request that the South Dakota Public Utilities Commission, in connection with ruling on Ionex's above-captioned application, set forth in any such order the terms of this stipulation


IONEX COMMUNICATIONS NORTH INC.
Applicant

BY:


Jonathan B. Mischy
Fred B. Campbell, Jr.
HARRIS, WILTSHIRE & GRANNIS LLP
1200 Eighteenth Street, NW
Washington, DC 20036
(202) 730-1300

SULLY BUTTES TELEPHONE COOPERATIVE
INC., Petitioner

BY:


Darla Pollman Rogers
MEYER & ROGERS
P.O. Box 1117
320 East Capitol
Pierre, SD 57501
(605) 224-7889

HARRIS,
WILTSHIRE &
GRANNIS LLP

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ATTORNEYS AT LAW

December 7, 2000

RECEIVED

DEC 11 2000

VIA FEDERAL EXPRESS

Ms. Heather K. Forney, Utility Analyst
South Dakota Public Utilities Commission
500 E. Capitol Avenue
State Capitol Building
Pierre, South Dakota 57501

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Re: TC00-171; In the Matter of the Application of Ionex Communications North, Inc.
for an Amended Certificate of Authority to Provide Facilities-Based Local
Exchange Service in the State of South Dakota


Dear Ms. Forney:

An original and ten copies of the enclosed unaudited income statement of Ionex Telecommunications, Inc. ("Ionex Telecommunications"), calculated as of October 31, 2000 and provided by Ionex Communications North, Inc. ("Ionex North"), is hereby submitted on behalf of Ionex North in response to your request for Ionex North's most recent financial information. Ionex North is a wholly-owned subsidiary of Ionex Telecommunications, and Ionex North is the only subsidiary of Ionex Telecommunications providing telecommunications service in South Dakota.

Pursuant to ARSD 20:10:01:41, Ionex North requests confidential treatment (in accordance with ARSD 20:10:01:40) of the information contained in the income statement for a period of three years, at which time the information may be placed in the public file. Ionex North is requesting confidential treatment of this information because disclosure thereof would provide an unfair advantage to its competitors, thereby causing material damage to Ionex North's competitive position.

An original and one copy of this letter are enclosed. Please date stamp the enclosed extra copy and return it in the self-addressed, stamped envelope provided. Should you have any questions regarding the income statement or the confidentiality request, please do not hesitate to contact the undersigned.

Very truly yours,


Jonathan B. Mirsky
Fred B. Campbell, Jr.
Counsel to Ionex Communications North, Inc.

Enclosure

cc: Sue E. Weiske, General Counsel, Ionex Communications North, Inc.

CONFIDENTIAL

[]

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

IN THE MATTER OF THE APPLICATION OF)	ORDER GRANTING
IONEX COMMUNICATIONS NORTH, INC. FOR)	AMENDED CERTIFICATE OF
AN AMENDED CERTIFICATE OF AUTHORITY)	AUTHORITY
TO INCLUDE PROVIDING FACILITIES-BASED)	
LOCAL EXCHANGE SERVICES IN SOUTH)	TC00-171
DAKOTA)	

On October 16, 2000, the Public Utilities Commission (Commission) received an application for an amended certificate of authority from Ionex Communications North, Inc. (Ionex).

Ionex is a South Dakota corporation authorized to provide - and currently is providing - resold local exchange and interexchange telecommunications services in South Dakota. Ionex requested an amendment to allow it to provide facilities-based local exchange services in South Dakota.

On October 19, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of November 3, 2000, to interested individuals and entities. Sully Buttes Telephone Cooperative, Inc. (Sully Buttes) filed a Petition to Intervene on November 3, 2000, and at its regularly scheduled November 30, 2000, meeting, the Commission granted Sully Buttes' Petition to Intervene. Ionex and Sully Buttes filed a Joint Stipulation for Dismissal of Petition to Intervene on December 8, 2000.

The Commission considered Ionex's request for an amended certificate of authority at its regularly scheduled December 12, 2000, meeting. Commission Staff recommended granting an amendment to Ionex's certificate of authority in order for the company to provide facilities-based local exchange service, subject to rural safeguards, and a waiver of ARSD 20:10:32:03. Commission Staff further recommended that Ionex be restricted to providing resold services only to its current customers in the exchanges of Gregory, Clearfield, Witten, Lesterville, Centerville, Viborg, Tabor, Hudson, and Sisseton and that those exchanges be granted rural safeguard status.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-69 and ARSD 20:10:32:03. The Commission finds that Ionex has met the legal requirements established for the granting of a certificate of authority. Ionex has, in accordance with SDCL 49-31-71, demonstrated sufficient technical, financial and managerial capabilities to offer facilities-based telecommunications services in South Dakota. Further, the Commission finds that there is good cause to waive ARSD 20:10:32:03.

The Commission approves Ionex's application for an amended certificate of authority, subject to rural safeguards. The certificate of authority for Ionex shall be amended to authorize it to offer facilities-based local exchange services in South Dakota, except in those areas served by a rural telephone company. Ionex is restricted to providing resold local exchange services to its current customers in the exchanges of Gregory, Clearfield, Witten, Lesterville, Centerville, Viborg, Tabor, Hudson, and Sisseton and that those exchanges be granted rural safeguard status. In the future, should Ionex choose to provide local exchange services statewide, with respect to rural telephone companies, Ionex will have to come before the Commission in another proceeding before being able to provide local service in that rural service area pursuant to 47 U.S.C. § 253(f) which allows the Commission to require a company that seeks to provide service in a rural service area to meet the requirements in 47 U.S.C. § 214(e)(1) for designation as an eligible telecommunications carrier. In addition, the granting of statewide certification will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f). It is therefore

ORDERED, that Ionex's application for an amended certificate of authority to provide facilities-based local exchange services is granted; and it is

FURTHER ORDERED, that Ionex shall file informational copies of tariff changes with the Commission as the changes occur; and it is

FURTHER ORDERED, that the Commission shall authorize Ionex to offer its facilities-based local exchange services in South Dakota, except in those areas served by a rural telephone company; and it is

FURTHER ORDERED, that Ionex is restricted to providing resold local exchange services to their current customers in the exchanges of Gregory, Clearfield, Witten, Lesterville, Centerville, Viborg, Tabor, Hudson, and Sisseton and that those exchanges be granted rural safeguard status and it is

FURTHER ORDERED, that the Commission finds good cause to waive ARSD 20.10.32.03

Dated at Pierre, South Dakota, this 20th day of December, 2000.

<p align="center">CERTIFICATE OF SERVICE</p> <p>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.</p> <p>By: <u>Helaine Kelbo</u></p> <p>Date: <u>12/22/00</u></p> <p align="center">(OFFICIAL SEAL)</p>
--

BY ORDER OF THE COMMISSION

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

AMENDED CERTIFICATE OF AUTHORITY

To Conduct Business As A Telecommunications Company
Within The State Of South Dakota

Authority was Granted December 12, 2000
Docket No. TC00-171

This is to certify that

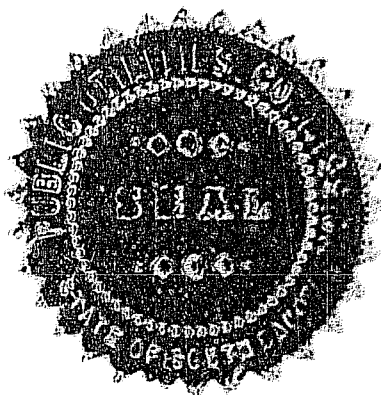
IONEX COMMUNICATIONS NORTH, INC.

is authorized to provide local exchange services, including facilities-
based local exchange services, in nonrural areas in South Dakota.

This certificate is issued in accordance with SDCL 49-31-69 and ARSD
20:10:32:03, and is subject to all of the conditions and limitations contained in
the rules and statutes governing its conduct of offering telecommunications
services.

Dated at Pierre, South Dakota, this 20th day of December, 2000

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION:



James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner