

TC01-105

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DOCKET NO.

In the Matter of IN THE MATTER OF THE REQUEST OF
WESTERN TELEPHONE COMPANY
FOR CERTIFICATION REGARDING ITS
USE OF FEDERAL UNIVERSAL
SERVICE SUPPORT

Public Utilities Commission of the State of South Dakota

DATE

MEMORANDA

8/16/01 Filed and Docketed;
8/16/01 Weekly Filing;
8/22/01 Order Granting Certification;
8/22/01 Docket Closed.

BEFORE THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE REQUEST OF
WESTERN TELEPHONE COMPANY FOR CERTIFICATION
REGARDING ITS USE OF FEDERAL UNIVERSAL
SERVICE SUPPORT

DOCKET NO. _____

REQUEST FOR CERTIFICATION

Western Telephone Company ("Western") by and through its attorney hereby submits a Request for Certification to the South Dakota Public Utilities Commission ("Commission") seeking certification from the Commission pursuant to 47 C.F.R. § 54.314. In support of this Request, Western offers the following:

1. On May 23, 2001, the Federal Communications Commission (FCC) released an Order relative to the federal universal service support mechanism for rural carriers. This Order (hereafter referenced as the "Fourteenth Report and Order"), in part, codifies at 47 C.F.R. § 54.314, a requirement for States to provide a certification regarding federal universal service support that is received by rural incumbent local exchange carriers and/or other eligible telecommunications carriers providing service in rural service areas. Pursuant to such rule, states that desire rural carriers within their jurisdiction to receive future federal universal service support must file an annual certification with the FCC and the Universal Service Administrative Company ("USAC") stating that federal high cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. This certification requirement applies to various categories of federal universal service support, including support provided pursuant to 47 C.F.R. §§ 54.301, 54.305, and/or 54.307, and/or 47 C.F.R. Part 36, Subpart F (high-cost loop support, local

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SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

existing support, safety net additive support, and safety valve support). Support provided under these FCC rate provisions will only in the future be made available if the State Commission files the requisite certification pursuant to § 54.314.

3. The certification required for rural carriers to receive federal universal service support for all time quarters during calendar year 2002 is currently due to be filed with the FCC and SDCL on or before October 1, 2001. The certification may be presented to these entities in the form of a letter from the State Commission. The letter must identify which carriers in the State are eligible to receive federal support during the 12-month period and must certify that the support fund will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

4. Western is a rural telephone company that has previously been designated by this Commission as an eligible telecommunications carrier. The Company provides local exchange telephone services, including all of the essential services that are included in the federal definition of universal service, to approximately 1129 access lines within its established rural service area in South Dakota.

5. The Commission has limited regulatory oversight over Western and its provisioning of local exchange services. Under SDCL § 49-31-5.1, the local exchange service rates charged to telecommunications cooperatives, municipal telephone systems, and independent telephone companies serving less than fifty thousand local exchange subscribers are not subject to the Commission's rate-making authority. In cases where State Commissions have limited regulatory authority over rural carriers, the FCC has indicated that these carriers should themselves initiate the certification process by presenting a plan to ensure compliance with the requirement in 47

U.S.C. § 254(e) that universal service support will only be used for the provision, maintenance, and upgrading of facilities and services for which the support is intended. Based on this filed plan, it is anticipated that the State Commission may make the appropriate certification to the FCC.²

5 The purpose of this filing is to provide information constituting Western's plan for the use of its federal universal service support and to otherwise verify that *Western Telephone Company* will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. § 254.

6 In the process of determining whether federal universal service support is used in a manner consistent with the Federal Communications Act, the "universal service principles" established in Section 254(b) are instructive. That Section states that the FCC shall base "policies for the preservation and advancement of universal service" on certain, specifically identified principles:

- (1) Quality services should be available at just, reasonable, and affordable rates.
- (2) Access to advanced telecommunications and information services should be provided in all regions of the Nation.
- (3) Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high-cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas. . . .
- (6) Elementary and secondary schools and classrooms, health care providers, and libraries should have access to [certain] advanced telecommunications services.

7 The FCC has declined to dictate specifically how the states should ensure that carriers are using federal universal service support consistent with the federal law, but has offered examples of how the support can be used to appropriately further universal service goals. The FCC has stated

[A] state could [use the federal support to] adjust intrastate rates, or otherwise direct carriers to use the federal support to replace implicit intrastate universal service support to high cost rural areas

A state could also require carriers to use the federal support to upgrade facilities in rural areas to ensure that services provided in those areas are reasonably comparable to services provided in urban areas of the state.³

8 The FCC provided the above examples as illustrative and not exhaustive examples of how support can be used consistent with Section 254(e). Other uses are appropriate provided the State Commission believes they are consistent with the federal universal service principles contained in Section 254.

9 Western, as a designated eligible telecommunications carrier has received federal universal service support in the past and expects to receive support during calendar year 2002. As of this time, specific support amounts the Company should receive in 2002 have not yet been identified by USAC. The Company, however, offers the following estimates concerning the support it expects to receive⁴:

High-Cost Loop Support	\$ 45,000
Local Switching Support (DEM Weighting)	\$ 85,000
Safety Net Additive Support	\$ N/A
Safety Valve Support	\$ N/A

³ Ninth Report and Order and Eighteenth Order on Reconsideration in CC Docket No. 96-45 (In the Matter of the Federal-State Joint Board on Universal Service), FCC 99-306, ¶ 96, November 2, 1999.

10 For calendar year 2002, Western intends to make the following network facility and equipment investments

Generic upgrade to central office switch; outside plant improvements.

11 In providing local exchange telecommunications services, Western will also incur other costs. In 2002, these costs will include:

Equipment and plant maintenance expense; expenses associated with outside plant improvements, including expenses related to launching DSL services; Additional central office equipment and outside plant expenses; network support and operations expenses; general support expenses; other typical operating expenses.

12 Western Telephone Company estimates that the total costs described above relating to its planned network facility and equipment investments and other expenses to be incurred in providing local exchange telecommunications services will exceed \$ 775,000

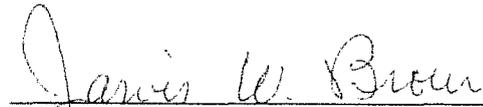
13 Consistent with the universal service principles set forth in the federal law and also the recent FCC orders referenced herein, Western will use federal universal service amounts received in 2002 (estimated in paragraph 9 herein) to offset a portion of these total costs. This use of federal universal service support will enable Western to: (1) maintain rates for its local exchange services that are affordable and reasonably comparable to rates being charged for the same services in urban areas; and (2) to upgrade its telecommunications facilities and equipment as necessary to meet evolving service requirements and maintain high quality service. The use of federal universal service support for these purposes is clearly consistent with the federal universal service provisions.

* It should be noted that Long Term Support amounts are not referenced because the FCC has indicated that it will deal with certification under 47USC Section 254(e) for these amounts. See 14th Report and Order footnote number 446.

14 Based on all of the foregoing information and also the Affidavit of Harold A. Brown, attached as Exhibit A, Western Telephone Company requests that this Commission issue an appropriate certification to the FCC and USAC indicating that Western is in compliance with 47 U.S.C. § 254(e) and should receive all federal universal service support determined for distribution to the Company in 2002. In order to ensure that this certification is issued to the FCC prior to October 1, 2001, Western Telephone Company would further ask the Commission to expedite the process that is initiated based on this filing.

Dated this 22nd day of August, 2001

Respectfully submitted,

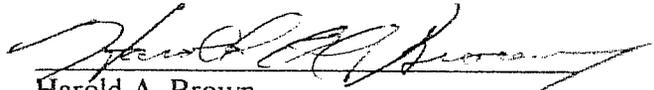


(signed by corporate attorney)

EXHIBIT A

AFFIDAVIT

As an authorized corporate officer of *Western Telephone Company*, I, Harold A. Brown hereby affirm familiarity with and an understanding of the requirements of the Federal Communications Act of 1934 as amended by the Telecommunications Act of 1996 with respect to the receipt of any federal universal service funds received as high-cost loop support, local exchange support, safety net additive support, and/or safety valve support and hereby affirm that any such support amounts received by *Western Telephone Company* will be used only for the purchase, maintenance, and upgrading of facilities and services for which the support is intended consistent with 47 U.S.C. § 254(e).


Harold A. Brown

Subscribed and Sworn to before me this 13th day of August, 2001.


JARVIS W. BROWN
NOTARY PUBLIC

JARVIS W. BROWN
SEAL NOTARY PUBLIC SEAL
SOUTH DAKOTA

My commission expires _____
June 10, 2005

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of August 9, 2001 through August 15, 2001

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact
Debbie Kabis within five business days of this filing. Phone: 605-773-3705 Fax: 605-773-3809

CONSUMER COMPLAINTS

0701-038 In the Matter of the Complaint filed by Calvin L. Plienis, Sioux Falls, South Dakota, against
Direct One Com.Long Distance Regarding Unauthorized Billing for Services.

The Complainant states that Direct One Com.Long Distance charged his credit card for unauthorized service. Complainant states that when he contacted Direct One Com.Long Distance, he was told that he ordered something from a company called Cornerstone and in the order he agreed to Direct One Com.Long Distance. Complainant avers that he authorized service and states that he does not know what Cornerstone is. Complainant requests that the Public Utilities Commission put this company out of business in South Dakota, revoke any penalties under South Dakota Law, and remove the charges.

Staff Analyst: Mary Healy
Staff Attorney: Kelly Frazier
Case Document: 08/10/01
Intervention Deadline: N/A

TELECOMMUNICATIONS

0501-100 In the Matter of the Request of Faith Municipal Telephone Company for Certification
Regarding its Use of Federal Universal Service Support.

The purpose of this filing is to provide information constituting Faith Municipal Telephone Company's plan for the use of its federal universal service support and to otherwise verify that Faith Municipal Telephone Company will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. Section 254

Staff Analyst: Marlan Best
Staff Attorney: Karen Cremer
Case Document: 08/10/01
Intervention Deadline: 08/24/01

1001-101 In the Matter of the Request of Kennebec Telephone Co., Inc. for Certification Regarding its
Use of Federal Universal Service Support.

The purpose of this filing is to provide information constituting Kennebec Telephone Co., Inc.'s plan for the use of its federal universal service support and to otherwise verify that Kennebec Telephone Co., Inc. will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. Section 254

Staff Analyst: Marlan Best
Staff Attorney: Karen Cremer
Case Document: 08/10/01
Intervention Deadline: 08/24/01

0501-101 In the Matter of the Request of Interstate Telecommunications Cooperative, Inc. for
Certification Regarding its Use of Federal Universal Service Support.

Date Decided: 08/14/01
Intervention Deadline: 08/24/01

TC01-107 In the Matter of the Application of Vitcom Corporation for a Certificate of Authority to Provide Local Exchange Services in South Dakota.

Application by Vitcom Corporation for a certificate of authority to provide resold and facilities based local exchange services in South Dakota. Applicant does not propose to offer services in rural areas but to the extent any enhanced local exchange carrier or competitive local exchange carrier in South Dakota is granted a small or local carrier exemption pursuant to Section 251(f) of the Federal Telecommunications Act of 1996 in the future, then Vitcom will seek authority to operate in such service area(s) as well.

Staff Analyst: Dawn Jacobson
Staff Attorney: Kelly Frazier
Date Decided: 08/14/01
Intervention Deadline: 08/31/01

TC01-108 In the Matter of the Request of Beresford Municipal Telephone Company for Certification Regarding its Use of Federal Universal Service Support.

The purpose of this filing is to provide information constituting Beresford Municipal Telephone Company's plan for the use of its federal universal service support and to otherwise verify that Beresford Municipal Telephone Company will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. Section 254.

Staff Analyst: Harlan Best
Staff Attorney: Karen Cremer
Date Decided: 08/16/01
Intervention Deadline: 08/24/01

TC01-109 In the Matter of the Request of Jefferson Telephone Company for Certification Regarding its Use of Federal Universal Service Support.

The purpose of this filing is to provide information constituting Jefferson Telephone Co.'s plan for the use of its federal universal service support and to otherwise verify that Jefferson Telephone Co. will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. Section 254.

Staff Analyst: Harlan Best
Staff Attorney: Karen Cremer
Date Decided: 08/16/01
Intervention Deadline: 08/24/01

TC01-110 In the Matter of the Request of Valley Telecommunications Cooperative Association, Inc. for Certification Regarding its Use of Federal Universal Service Support.

The purpose of this filing is to provide information constituting Valley Telecommunications Cooperative Assn., Inc.'s plan for the use of its federal universal service support and to otherwise verify that Valley Telecommunications Cooperative Assn., Inc. will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. Section 254.

Staff Analyst: Harlan Best
Staff Attorney: Karen Cremer

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

IN THE MATTER OF THE REQUEST OF)	ORDER GRANTING
WESTERN TELEPHONE COMPANY FOR)	CERTIFICATION
CERTIFICATION REGARDING ITS USE OF)	
FEDERAL UNIVERSAL SERVICE SUPPORT)	TC01-105

On May 23, 2001, the Federal Communications Commission (FCC) released an Order concerning the federal universal service support mechanism for rural carriers.¹ This Order (hereafter referenced as the "Fourteenth Report and Order"), in part, codifies at 47 § C.F.R. 54.314, a requirement for States to provide a certification regarding federal universal service support that is received by rural incumbent local exchange carriers and/or eligible telecommunications carriers providing service in rural service areas. Pursuant to such rule, a state that desires rural carriers within its jurisdiction to receive future federal universal service support must file an annual certification with the FCC and the Universal Service Administrative Company (USAC) stating that federal high cost support provided to such carriers within that State will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. This certification requirement applies to various categories of federal universal service support, including support provided pursuant to 47 C.F.R. §§ 54.301, 54.305, and/or 54.307, and/or 47 C.F.R. Part 36, Subpart F (high-cost loop support, local switching support, safety net additive support, and safety valve support). Support provided under these FCC rule provisions will only be made available in the future if the State Commission files the requisite certification pursuant to § 54.314.

The certification required for rural carriers to receive federal universal support for all four quarters during calendar year 2001 is currently due to be filed with the FCC and USAC on or before October 1, 2001. The certification may be presented to these entities in the form of a letter from the State Commission. The letter must identify which carriers in the state are eligible to receive federal support during the 12-month period and must certify that the carriers listed will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

On August 14, 2001, the South Dakota Public Utilities Commission (Commission) received a filing from Western Telephone Company (Company) regarding its Request for Certification Regarding Its Use of Federal Universal Service Support. The purpose of the filing was to provide information constituting Company's plan for the use of its federal universal service support and to otherwise verify that Company will use all federal

¹CC Docket No. 96-45, CC Docket No. 00-256, Fourteenth Report and Order, Twenty Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, FCC 01-157, Released May 23, 2001.

universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. § 254. As a part of its plan, Company listed estimates of the support it expected to receive from USAC as well as its estimated costs for the provision, maintenance, and upgrading of facilities and services. An Affidavit was attached to the Request for Certification.

On August 16, 2001, the Commission electronically transmitted notice of the filing and the intervention deadline of August 24, 2001, to interested individuals and entities. No parties sought intervention.

At its regularly scheduled meeting of September 7, 2001, the Commission considered this matter.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-31, and 47 U.S.C. § 254. The Commission found that the Company is eligible to receive federal support as it states it will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The Commission unanimously voted to approve Company's Request for Certification Regarding Its Use of Federal Universal Service Support. It is therefore

ORDERED, that the Company is eligible to receive federal support as it states it will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended. It is

FURTHER ORDERED, that the Commission approves Company's Request for Certification Regarding Its Use of Federal Universal Service Support.

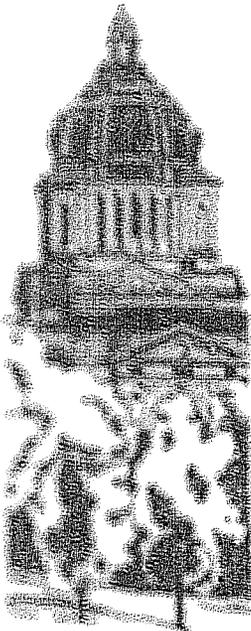
Dated at Pierre, South Dakota, this 20th day of September, 2001

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>Aldine Kalbe</u>
Date	<u>9/25/01</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner



South Dakota Public Utilities Commission



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

September 25, 2001

Ms Magalie R. Salas
Federal Communications Commission
Office of the Secretary
445 12th St. S.W.
Washington, DC 20554

Ms. Irene Flannery
Universal Service Administrative Company
2120 L Street N.W., Suite 600
Washington, DC 20037

RE CC Docket No. 96-45, CC Docket No. 00-256, Fourteenth Report and Order, Twenty Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, FCC 01-157, Released May 23, 2001

Annual State Certification of Support for Rural Carriers

Dear Ms. Salas and Ms. Flannery:

The South Dakota Public Utilities Commission (Commission) hereby states that the following rural incumbent local exchange carriers and/or eligible telecommunication carriers within its jurisdiction have been certified to receive support pursuant to CFR §§ 54.301, 54.305, and/or 54.307 and /or part 36, subpart F. The carriers listed below filed requests for certification with the Commission which support the affirmations that all federal high-cost support provided to them will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended. The Commission has granted certification to the following companies:

Armour Independent Telephone Company
Baltic Telecom Cooperative and East Plains Telecom, Inc.
Beresford Municipal Telephone Company
Bridgewater-Canistota Independent Telephone Company
Cheyenne River Sioux Tribe Telephone Authority
Citizens Telecommunications Company of Minnesota, Inc.
City of Brookings Municipal Telephone
Consolidated Telcom
Dakota Community Telephone

General Office
Telephone: (605) 773-3200
Fax: (605) 773-3200

Transportation
Telephone: (605) 773-3200
Fax: (605) 773-3200

Consumer Hotline
1-800-333-3782

Toll Free
Relay South Dakota
1-800-333-3782

Business Website
www.sdpucc.com

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