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June 28, 2002

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Deb Ellofson, Executive Director
Public Utilities Commission
Capitol Building, First Floor
500 East Capitol Avenue
Pierre, SD 57501

Re: *Black Hills FiberCom, L.L.C.'s Petition for a Declaratory Ruling Regarding Application of ARSD § 20:10:32:11 and Alternative Petition for Approval of an Amendment to Black Hills FiberCom, L.L.C.'s Local Calling Exchange Area Pursuant to ARSD § 20:10:32:11*

Dear Ms. Ellofson:

Enclosed for filing in the above matter, are the original and ten copies of *Black Hills FiberCom, L.L.C.'s Petition for Declaratory Ruling Regarding Application of ARSD § 20:10:32:11 and Alternative Petition for Approval of an Amendment to Black Hills FiberCom, L.L.C.'s Local Calling Exchange Area Pursuant to ARSD § 20:10:32:11*

Sincerely,

BLACK HILLS CORPORATION

A handwritten signature in black ink, appearing to read 'Linden R. Evans', is written over the typed name.

Linden R. Evans

/jmr
Encl.

cc: Kyle White
Ron Schaible
Tom Cooley
Jheri Turner

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

IN THE MATTER OF THE PETITION OF)
BLACK HILLS FIBERCOM, L.L.C., FOR A)
DECLARATORY RULING REGARDING)
ARSD § 20:10:32:11)

and)

Docket TC02-_____)

ALTERNATIVE PETITION FOR APPROVAL)
AN AMENDMENT TO BLACK HILLS)
FIBERCOM, L.L.C.'S LOCAL CALLING AREA)
PURSUANT TO ARSD § 20:10:32:11)

BLACK HILLS FIBERCOM, L.L.C.'S

**PETITION FOR A DECLARATORY RULING
REGARDING APPLICATION OF ARSD § 20:10:32:11**

and

**ALTERNATIVE PETITION FOR
APPROVAL OF AN AMENDMENT TO
BLACK HILLS FIBERCOM, L.L.C.'S
LOCAL CALLING EXCHANGE AREA
PURSUANT TO ARSD § 20:10:32:11**

Pursuant to the provisions of SDCL § 1-26-15 and ARSD § 20:10:01:34, Black Hills FiberCom, L.L.C. (“**FiberCom**”) of 809 Deadwood Avenue, Rapid City, South Dakota 57702, hereby petitions the South Dakota Public Utilities Commission (“**Commission**”) for a declaratory ruling as to the application of ARSD § 20:10:32:11 and, more specifically, whether FiberCom must seek the approval of the Commission to amend its local calling plan (“**Petition**”).

In the event the Commission declares that it must approve FiberCom's proposed amendment to its local calling plan, FiberCom hereby alternatively petitions the Commission for approval of an amendment to its local calling area pursuant to ARSD § 20:10:32:11 (**"Alternative Petition"**).

In support of its Petition and Alternative Petition, FiberCom states and alleges as follows.

Introduction

FiberCom is a competitive local exchange carrier providing telecommunications services to residential and business customers in the Northern Black Hills of South Dakota. FiberCom provides a local calling area that is different from the incumbent carrier, Qwest. FiberCom's Commission-approved local calling area allows its customers to make toll free telephone calls throughout FiberCom's service area, including "voice" calls and "data" calls "off-network"¹ to Qwest customers. On October 29, 1999, the Commission approved FiberCom's local calling exchange area in Docket No. TC99-056.

Approximately 400 FiberCom customers located in the Northern Black Hills are accessing America On-Line's ("AOL") Internet services via Rapid City telephone numbers as part of Internet services that AOL is purchasing from the incumbent, Qwest.² Consequently, FiberCom currently pays intraLATA charges (intrastate long distances charges) – approximately \$0.05 per minute – to Qwest when FiberCom's customers located outside of Rapid City connect to AOL or other similarly situated Internet Service Providers ("ISPs") served by telecommunication companies other than FiberCom. Currently, FiberCom does not pass these

¹ "Off-network" calls are calls made from FiberCom's telephone customers to parties (or ISPs) served by telecommunication companies other than FiberCom, e.g., Qwest.

² Similar to Black Hills customers that use AOL, Black Hills customers utilize other ISP providers that are "off-network" and utilize PRIs purchased from Qwest. However, the vast majority of the off-network ISP traffic for which Qwest invoices Black Hills results from ISP traffic terminated to AOL.

charges on to its customers. The charges incurred by FiberCom well exceed the revenue FiberCom receives for the telecommunications service provided to this group of 400 customers. Currently, Qwest charges FiberCom more than \$50,000 per month for the minutes that this group of 400 customers is connected to AOL or any other off-network ISP. This sum significantly exceeds the income that FiberCom receives from these particular customers.

Over the past several months, FiberCom has attempted to work with Qwest to resolve various ISP traffic issues, including the issue raised in this Petition and Alternative Petition. FiberCom's objective has been to determine a way to avoid the approximately \$600,000 that Qwest bills FiberCom each year for this particular traffic. Qwest has insisted that there is nothing that can be done in regard to the charges and that such charges are required by its Commission-approved tariff. Curiously, FiberCom very recently learned from AOL that AOL contracts with Qwest to provide the wholesale Internet services necessary to provide Internet access for AOL's customers located in western South Dakota. Consequently, it now seems clear why Qwest has been unwilling to work with FiberCom in resolving this issue – Qwest, unbeknownst to FiberCom until very recently, has significantly profited from FiberCom's situation without disclosing the fact to FiberCom that Qwest is contracted to be the facilitating ISP for AOL in Rapid City.

FiberCom has been successful in moving other ISPs to its network to avoid the interLATA charges. However, to date, FiberCom has been unsuccessful in causing AOL (or Qwest) to purchase the PRIs necessary to allow Northern Black Hills customers access to AOL within the community that they are located.³ Consequently, FiberCom has determined it

³ Attached hereto as Exhibit "1" is a June 4, 2002 letter from Black Hills to AOL describing the issue raised in this Petition and requesting contact from AOL. On June 11, 2002, an AOL representative contacted Black Hills; however, as of the date of this filing AOL and Black Hills have not reached an agreement as to how Black Hills may avoid the Qwest intraLATA charges. AOL has asked Qwest to review this situation on its behalf. As of this filing no contacts from Qwest have been received by FiberCom.

economically necessary to amend its local calling plan in relation to ISP traffic connecting to AOL and other similarly situated “off-network” ISPs.⁴ This action will in no way impact the free voice telephone calling area, which is a cornerstone of FiberCom’s business. Nor will ISP (or data) traffic be impacted when FiberCom customers terminate to the FiberCom phone numbers of ISPs utilizing PRIs and/or collocation services connected to FiberCom’s network. Rather, the only impact will result to data traffic that terminates to PRIs of ISPs that are not connected directly to FiberCom’s network.

FiberCom’s Petition for Declaratory Ruling

1. The Commission rule in question:

The pertinent Commission rule at issue is ARSD § 20:10:32:11, which provides as follows:

A telecommunications company that is granted authority to offer competitive local exchange services in an area where the incumbent local exchange carrier provides a certain local calling area may provide no less than the same local calling area to its customers. An alternative provider of local exchange services may, subject to commission approval, offer a different local calling area upon showing that it would not be contrary to universal service, public safety and welfare, quality of service, and consumer rights concerns.

2. The facts and circumstances which give rise to the issue to be answered by the Commission are:

On May 20, 1999, pursuant to ARSD § 20:10:32:11, FiberCom filed with this Commission in Docket No. TC99-056, an “Application of Black Hills FiberCom, L.L.C. To Offer A Different Local Calling Area Than That Which Is Provided By The Incumbent Local

⁴ Black Hills has been notifying several of the “heaviest” users of AOL as to this proceeding before the Commission. A copy of the letter being mailed to these customers is attached as Exhibit “2.” Many of the “heaviest” users are connected to AOL nearly full time (or 24 hours per day). Black Hills is currently paying Qwest about \$0.05 per minute for this ISP traffic.

Exchange Carrier, U.S. West Consistent With ARSD 20:10:32:11” (hereinafter “**1999 Application**”). A copy of the 1999 Application and its exhibits are attached as Exhibit “3.”

The 1999 Application sought the Commission’s approval to provide extended area local service (no toll calls) between its customers and all other Northern Black Hills customers, including but not limited to U.S. West customers (now Qwest customers), and FiberCom customers, between the communities of Belle Fourche, Black Hawk, Deadwood, Lead, Piedmont, Rapid City, Spearfish, Sturgis, St. Onge and Whitewood. On October 29, 1999, the Commission entered its Order granting FiberCom approval to offer a different calling area in Docket No. TC99-056 (“**1999 Order**”). A copy of the 1999 Order is attached as Exhibit “4.”

FiberCom proposes that its local calling plan be revised to address voice telecommunications services separately from data communications services. When FiberCom proposed in 1999 its current local calling plan, it did so in response to market demands to provide free voice conversations between parties located in Rapid City and other communities within the Northern Black Hills. Significant data traffic was not anticipated. However, now that FiberCom has constructed its telecommunications network and is serving over 20,000 customers with more than 40,000 phone lines, it is experiencing intra exchange traffic originated by FiberCom customers and terminated to Qwest-served ISPs that exceeds 50% of the total monthly minutes of use by all of FiberCom’s customers (voice and data combined).

Although the Federal Communications Commission has determined that connections made by customers to ISPs are “interstate” in nature, Qwest invoices FiberCom as if these calls were “intrastate” long distance – approximately \$0.05 per minute. The charges are predominantly related to FiberCom customers in the Northern Black Hills connecting to AOL (and other “off-network” ISPs) on Qwest’s network in Rapid City. FiberCom’s monthly payments to Qwest for AOL’s (and other off-network ISPs) 400 Northern Black Hills customers

exceed \$50,000, with about 60% of the charges attributed to 60 “high-use” customers. This situation, coupled with the fact that FiberCom will not be paid reciprocal compensation by Qwest for so-called “local” calls that are originated by FiberCom’s customers and terminated to Qwest’s ISP customers, has given rise to FiberCom’s need to revise its local calling plan in this limited nature.

Approximately 400 of FiberCom’s current telephone customers located in the Northern Black Hills are accessing AOL and other off-network ISPs through Rapid City telephone numbers attached to PRIs purchased by AOL and other ISPs from Qwest. In fact, FiberCom very recently became aware that AOL has contracted with Qwest to provide Internet access services to AOL’s customers that use Rapid City access numbers. Consequently, FiberCom is paying intraLATA charges to Qwest when FiberCom customers connect to AOL and other similarly situated off-network ISPs. The approximately \$50,000 per month charges incurred by FiberCom well exceed the revenue FiberCom receives for the telecommunications service provided to these customers.

FiberCom has been successful in moving other ISPs to its network so as to avoid the interLATA charges from Qwest. However, to date, FiberCom has not been successful in causing AOL to purchase the PRIs necessary to allow the group of customers to access AOL in Rapid City without FiberCom incurring intraLATA charges from Qwest. Consequently, given the economic impact that FiberCom experiences due to the current arrangement, FiberCom has determined it necessary to amend its local calling plan in relation to the Northern Black Hills ISP traffic connecting to off-network ISPs.

This action will revise the local calling area only as to data telecommunications to off-network telecommunication equipment, and will not impact voice telephone calls in any way. Moreover, in addition to FiberCom’s Internet services, there are at least eight ISPs currently

connected to FiberCom's network that provide Internet services to the Northern Black Hills communities. Consequently, a broad range of choices are available to the approximate 400 customers in regard to their ISP, including, of course, FiberCom.

FiberCom is sending letters by Federal Express to the approximately 60 "high use" AOL customers informing them of this potential change to FiberCom's local calling plan. To date, approximately 90 customers have received the letter and 35 customers have had follow up conversations with a representative of FiberCom. A sample copy of the letter mailed to these customers is attached as Exhibit "1." The letter informs the customer of FiberCom's economic concern and provides that it is FiberCom's intent to charge long distance charges for the customer's connections to ISPs that use Rapid City telephone numbers. The purpose of the letter is, of course, to provide plenty of notice to the possible change and to encourage FiberCom's telephone customers to consider alternative ISPs. The letter additionally encourages the customer to contact FiberCom with any questions they may have. FiberCom has received inquiries from several of these customers. Fortunately, these customers have understood the situation and have commonly requested information as to how they might switch to a local Internet service provider. However, it is anticipated that some customers will not be satisfied with the proposed amendment to FiberCom's local calling plan. Consequently, in addition to the letter, FiberCom is also attempting to telephone each customer so as to answer any questions and further explain FiberCom's economic situation in this matter.

3. The precise issue to be answered by the Commission's declaratory ruling:

FiberCom respectfully requests that the Commission provide a declaratory ruling as to the following issue:

Must FiberCom obtain the Commission's approval, pursuant to the provisions of ARSD § 20:10:32:11, prior to FiberCom charging its customers for utilizing non-network ISP services through Rapid City telephone numbers attached to PRIs purchased from Qwest?

Discussion

FiberCom respectfully submits that the issue presented in this matter relates solely to FiberCom's local calling plan, and consequently, the Commission's 1999 approval of FiberCom's local calling geographic area will not be amended in any way. FiberCom is committed to providing its customers with free local voice communications between the listed communities of the Northern Black Hills.

FiberCom seeks to amend only that portion of its local calling plan that pertains to data telecommunications traffic that is terminated to off-network communication equipment. Of the more than 20,000 FiberCom customers, approximately 400 customers (or 2%) will be impacted by this exception to FiberCom's local calling plan.

Further, because FiberCom seeks only to amend its local calling plan to create an exception to a plan that it has offered over the past three years, and which continues to be a plan that provides greater local services than the incumbent, Qwest, FiberCom respectfully submits that approval of the plan by the Commission is not required pursuant to ARSD § 20:10:32:11.

Moreover, FiberCom will continue to provide substantially more than the minimum telecommunication services required pursuant to ARSD § 20:10:32:10, which states:

A telecommunications company providing local exchange services shall, at minimum, make the following available to each customer:

- (1) Access to the public switched network;
 - (2) Access to emergency services such as 911 or enhanced 911;
 - (3) Access to a local directory and directory assistance;
 - (4) Access to operator services;
 - (5) Telecommunications relay service capability or access necessary to comply with state and federal regulations;
 - (6) Nonpublished service upon written or verbal request of the customer;
- and
- (7) Access to interexchange services.

FiberCom’s proposed amendment to its local calling plan will not in any manner impact the minimum requirements that must be provided by telecommunications companies. Consequently, FiberCom respectfully submits that it is not necessary that the Commission approve the proposed amendment to FiberCom’s plan.

Alternative Petition for Approval Of An Amendment To Black Hills FiberCom, L.L.C.’s Local Calling Exchange Area Pursuant To ARSD § 20:10:32:11

Should the Commission determine that FiberCom must obtain the approval of the Commission prior to amending its local calling plan, FiberCom respectfully requests that the Commission alternatively determine that FiberCom’s amendment to its local calling plan “would not be contrary to universal service, public safety and welfare, quality of service, and consumer rights concerns.” ARSD § 20:10:32:11.

FiberCom proposes the following definition for its new local calling area: FiberCom will provide extended area service (no toll calls) for person-to-person voice telecommunications service for its customers to all other customers, including but not limited to Qwest customers, and FiberCom customers, between the communities of Belle Fourche, Black Hawk, Deadwood, Lead, Piedmont, Rapid City, Spearfish, Sturgis, St. Onge, and Whitewood.

Data telecommunications service calls, including calls to ISPs initiated by FiberCom’s customers to parties served by telecommunications companies other than FiberCom, will be subject to a local calling area designed to match Qwest’s offering. The local calling area for data telecommunications initiated by FiberCom customers to non-FiberCom customers is:

- Belle Fourche Aladdin, Wyoming
 Colony, Wyoming
 Fruitdale, South Dakota
 Nisland, South Dakota

- Black Hawk Box Elder, South Dakota
 Ellsworth Air Force Base, South Dakota
 Hermosa, South Dakota

- Hill City, South Dakota
 - Keystone, South Dakota
 - Piedmont, South Dakota
 - Rapid City, South Dakota
- Deadwood
 - Beulah, Wyoming
 - Lead, South Dakota
 - Spearfish, South Dakota
 - Whitewood, South Dakota
- Lead
 - Beulah, Wyoming
 - Deadwood, South Dakota
 - Spearfish, South Dakota
 - Whitewood, South Dakota
- Piedmont
 - Black Hawk, South Dakota
 - Box Elder, South Dakota
 - Ellsworth Air Force Base, South Dakota
 - Hermosa, South Dakota
 - Hill City, South Dakota
 - Keystone, South Dakota
 - Rapid City, South Dakota
- Rapid City
 - Black Hawk, South Dakota
 - Box Elder, South Dakota
 - Ellsworth Air Force Base, South Dakota
 - Hermosa, South Dakota
 - Hill City, South Dakota
 - Keystone, South Dakota
 - Piedmont, South Dakota
- Spearfish
 - Beulah, Wyoming
 - Deadwood, South Dakota
 - Lead, South Dakota
 - Whitewood, South Dakota
- Sturgis
 - None
- St. Onge
 - None
- Whitewood
 - Deadwood, South Dakota
 - Lead, South Dakota
 - Spearfish, South Dakota
 - Beulah, Wyoming

FiberCom respectfully submits that such an amendment would not jeopardize in any significant way universal service, public safety and welfare, quality of service, or consumer rights concerns. The plan offered by FiberCom to the citizens of the Northern Black Hills would remain an attractive option to the plan currently offered by Qwest. Because the proposed amendment to FiberCom's plan would be no less than the plan provided by Qwest, FiberCom respectfully submits that the amended plan, as described above, should be determined to not be contrary to universal service, public safety and welfare, quality of service, and consumer rights concerns, pursuant to ARSD § 20:10:32:11.

Conclusion

FiberCom submits that, because the amendment to FiberCom's plan as proposed herein does not impact the geographic local calling area relative to voice traffic and data traffic is equivalent to the local calling area offered by Qwest, the Commission's approval of the amended plan is not required pursuant to ARSD § 20:10:32:11. Consequently, FiberCom respectfully requests that the Commission declare that it may amend its local calling plan as proposed herein without the approval of the Commission.

Alternatively, should the Commission declare that FiberCom's proposed amendment to its local calling plan is an amendment requiring Commission approval pursuant to ARSD § 20:10:32:11, FiberCom respectfully requests that the Commission determine that the amended local calling area proposed by FiberCom would not be contrary to universal service, public safety and welfare, quality of service or consumer rights concerns and is approved.



Black Hills FiberCom

No One Else Has Our Connections.

P.O. Box 2115 • 809 Deadwood Avenue • Rapid City, SD 57709

ph. (605) 721-2000 • fax (605) 342-1693

www.blackhillsfiber.com

June 4, 2002

VIA FEDERAL EXPRESS

Mr. Ray Oglethorpe
President
America On Line
75 Rockefeller Plaza
New York, New York 10019

Dear Mr. Oglethorpe:

Subject: South Dakota A.O.L. Customer Issues (400 A.O.L. Customers at Risk)

Black Hills FiberCom is a competitive local exchange carrier offering telecommunications services to residential and business customers in Rapid City and the Northern Black Hills of South Dakota. We offer a local calling area that is different from our competitor, Qwest. This calling area allows our customers to make toll free calls throughout our service area, including calls off-network to Qwest customers.

Approximately 400 of our Northern Black Hills customers are accessing your services through Rapid City phone numbers attached to PRIs purchased from Qwest. The result is that Black Hills FiberCom is paying intra latta charges to Qwest when our customers connect to A.O.L. These charges well exceed the revenue we receive for the telecommunications service provided to this group of customers.

We have been unsuccessful in identifying and contacting the party within your company responsible for purchasing the PRIs customers use to access A.O.L. in Rapid City. Unless we can move these connections to our network, we will begin causing our customers to move to another ISP with facilities on our network or pay 7.9 cents per minute for their connections to A.O.L.'s Rapid City access numbers.

We offer attractive PRI pricing and, with the exception of A.O.L., have been successful in selling PRI and collocation services to the major ISPs serving this area. We believe we can both save you operating costs and allow you to retain your 400 Northern Black Hills customers. We have run out of patience with this situation and will implement changes to our local area calling for ISP bound calls in the very near future.

Mr. Ray Oglethorpe


Page 2

June 4, 2002

Unless we have a meaningful contact from A.O.L. by June 10, we will continue contacting our Northern Black Hills customers that use A.O.L. regarding their need to consider the selection of a new ISP for their Internet access.

If you have any questions regarding our situation or if you want specifics regarding PRI and collocation services from Black Hills FiberCom, please contact me.

Sincerely,



Ronald Schaible
Sr. VP & General Manager

RS/mh

c: Linn Evans, Attorney
David Colburn, AOL Ex. V.P., President Business Development
Neil Smith, AOL Ex. V.P., Member Services
Matt Korn, AOL Ex. V.P., Network and Data Center Operations



Black Hills FiberCom

No One Else Has Our Connections.

P.O. Box 2115 • 809 Deadwood Avenue • Rapid City, SD 57709

ph. (605) 721-2000 • fax (605) 342-1693

www.blackhillsfiber.com

IMPORTANT BILLING NOTICE - DECISION REQUIRED

May 31, 2002

Dear [REDACTED]

Thank you for choosing Black Hills FiberCom as your communications service provider. As a result of your commitment to us, you have made us the dominant provider in our market area.

This letter is direct to you as it concerns certain new charges that you may incur as a result of your Internet Service Provider ("ISP"). Given that on June 14, 2001, the Federal Communications Commission ("FCC") decreed Internet traffic to be Interstate in nature and the fact that we are subject to long distance charges for terminating this traffic to other carriers, is causing us to make a policy change that will regrettably constitute a billing change to your account if left unattended. Black Hills FiberCom has filed with the South Dakota Public Utilities Commission in order to revise its local calling area, so that data traffic to customers off of our network (including calls to ISPs) will no longer be free when the call is made between Qwest local exchanges. Effective July 1, 2002, we will begin billing for "off-net Internet and data traffic" that is not served by our network. Specifically dial-up Internet activity directed to another non-local ISP will incur a long distance charge. The problem is almost exclusively with America On-Line ("AOL"). We have attempted to establish services directly with AOL to avoid these costs, but have been unsuccessful and have little or no hope for future resolution.

We have run a trial/test billing for this traffic and noticed that you would incur charges that I expect would surprise you. You have several options to avoid these charges including moving to one of our on-net ISPs, those operating on our network (i.e., RapidNet, E-Net, Mato, BlackHills.com, Rushmore On-Line, Inttec/Visionary Computing) or any other ISP located in your community. Should you choose to have us be your Internet Service Provider, we will pay your last AOL bill and connect you to our high-speed Internet service without any installation charges.

This in no way affects the free telephone (voice) calling area that we have established throughout the Northern Black Hills and Rapid City. We are committed and proud to provide all of our customers with the best service and best value. If you have any questions on this matter, please feel free to contact us at 721-2000 (please ask for Tim Hedman).

Sincerely,

Ronald Schaible
Sr. VP & General Mgr.

RS:leb

Attch.

EXHIBIT 2

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

In the Matter of the Application of Black Hills FiberCom, L.L.C., to Provide a Different Local Calling Area Than That Which is Provided by the Incumbent Local Exchange Carrier)
)
)
)
)

Docket No. _____

APPLICATION OF BLACK HILLS FIBERCOM, L.L.C.
TO OFFER A DIFFERENT LOCAL CALLING AREA
THAN THAT WHICH IS PROVIDED BY THE INCUMBENT
LOCAL EXCHANGE CARRIER, U. S. WEST
CONSISTENT WITH ARSD 20:10:32:11

Black Hills FiberCom, L.L.C. ("Black Hills"), submits this application, consistent with the provisions of ARSD 20:10:32:11, to provide a different local calling area than that which is provided by U. S. West and, in support of its application and consistent with the provisions of ARSD 20:10:32:11, states as follows:

1. Black Hills FiberCom, L.L.C., through its predecessor in interest, was originally granted a Certificate of Authority from the South Dakota Public Utilities Commission ("Commission") on August 5, 1998, which has been transferred to Black Hills consistent with the Commission Order dated May 5, 1999.

2. Black Hills proposes to provide competitive local exchange services in an area presently served by the incumbent local exchange carrier, U. S. West, in the communities of Belle Fourche, Black Hawk, Deadwood, Lead, Piedmont, Rapid City, Spearfish, Sturgis, St. Onge, and Whitewood.

3. Black Hills proposes to provide extended area service (no toll calls) for its customers to all other customers, including but not limited to U.S. West customers, and Black Hills customers, between the communities of Belle Fourche, Black Hawk, Deadwood, Lead, Piedmont, Rapid City, Spearfish, Sturgis, St. Onge, and Whitewood.

4. Presently, the communities identified in paragraph 3 and/or served by U.S. West have free calls only within the local calling areas identified below:

- Belle Fourche Aladdin, Wyoming
 Colony, Wyoming
 Fruitdale, South Dakota
 Nisland, South Dakota

- Black Hawk
 - Box Elder, South Dakota
 - Ellsworth Air Force Base, South Dakota
 - Hermosa, South Dakota
 - Hill City, South Dakota
 - Keystone, South Dakota
 - Piedmont, South Dakota
 - Rapid City, South Dakota

- Deadwood
 - Beulah, Wyoming
 - Lead, South Dakota
 - Spearfish, South Dakota
 - Whitewood, South Dakota

- Lead
 - Beulah, Wyoming
 - Deadwood, South Dakota
 - Spearfish, South Dakota
 - Whitewood, South Dakota

- Piedmont
 - Black Hawk, South Dakota
 - Box Elder, South Dakota
 - Ellsworth Air Force Base, South Dakota
 - Hermosa, South Dakota
 - Hill City, South Dakota
 - Keystone, South Dakota
 - Rapid City, South Dakota

- Rapid City
 - Black Hawk, South Dakota
 - Box Elder, South Dakota
 - Ellsworth Air Force Base, South Dakota
 - Hermosa, South Dakota
 - Hill City, South Dakota
 - Piedmont, South Dakota

- Spearfish
 - Beulah, Wyoming
 - Deadwood, South Dakota
 - Lead, South Dakota
 - Whitewood, South Dakota

- Sturgis
 - None

- St. Onge
 - None

- Whitewood Deadwood, South Dakota
Lead, South Dakota
Spearfish, South Dakota
Beulah, Wyoming

5. The local calling area proposed by Black Hills is not contrary to the universal service, public safety and welfare, quality of service, or consumer rights to the communities in which Black Hills will provide service, as the customer will have a choice of continuing its service through U. S. West as the local exchange carrier or, alternatively, by agreeing to the service provided by Black Hills. Black Hills' extended area service will provide a free local calling area between Rapid City to the north, inclusive of Spearfish and Sturgis and everything in between. Extended area service has been a point of contention and concern for the citizens of the Northern Hills and their incumbent local exchange carrier over the last several years, and Black Hills proposes to provide these customers an alternative to the calling area presently served by U. S. West.

WHEREFORE, Black Hills respectfully requests that the Commission enter an Order authorizing Black Hills to provide a local exchange service area different than that which is presently served by U. S. West, the incumbent local exchange carrier, consistent with the provisions of ARSD-20:10:32:11.

Dated this 20th day of May, 1999.

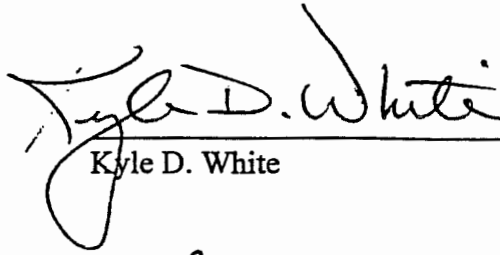
BLACK HILLS FIBERCOM, L.L.C.

By Kyle D. White
Its Vice President of Marketing and Regulatory
Affairs

STATE OF SOUTH DAKOTA)
)
COUNTY OF PENNINGTON)

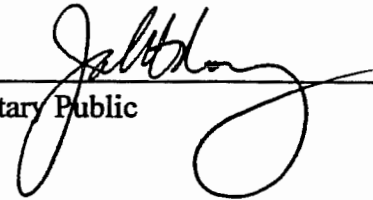
Kyle D. White, being first duly sworn on his oath, deposes and says: That he is the Vice President of Marketing and Regulatory Affairs of Black Hills FiberCom, L.L.C., named in the within and foregoing Application; that he has read the same and knows the contents thereof to be

true of his own knowledge except as to those matters therein stated on information and belief, and as to such matters, he believes it to be true.



Kyle D. White

Subscribed and sworn to before me this 24th day of May, 1999.



Notary Public



MY COMM. EXPIRES
7/12/2001

assignment, lease, or transfer of a certificate of authority to provide local exchange services, the commission shall consider the criteria set forth in § 20:10:32:06.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-71, 49-31-76.

20:10:32:09. Suspension or revocation of certificate of authority. Failure of any provider of local exchange service to comply with applicable requirements set forth in this chapter, other terms and conditions imposed on its certification by the commission, or other applicable rules or laws may result in the suspension or revocation of the provider's certificate of authority to provide local exchange services.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-75, 49-31-76.

20:10:32:10. Service obligations of all providers. A telecommunications company providing local exchange services shall, at minimum, make the following available to each customer:

- (1) Access to the public switched network;
- (2) Access to emergency services such as 911 or enhanced 911;
- (3) Access to a local directory and directory assistance;
- (4) Access to operator services;
- (5) Telecommunications relay service capability or access necessary to comply with state and federal regulations;
- (6) Nonpublished service upon written or verbal request of the customer; and
- (7) Access to interexchange services.

Source: 25 SDR 89, effective December 27, 1998.

General Authority: SDCL 49-31-76.

Law Implemented: SDCL 49-31-3, 49-31-75, 49-31-76.

20:10:32:11. Local calling scope for alternative providers. A telecommunications company that is granted authority to offer competitive local exchange services in an area where the incumbent local exchange carrier provides a certain local calling area may provide no less than the same local calling area to its customers. An alternative provider of local exchange services may, subject to commission approval, offer a different local calling area upon showing that it would not be contrary to universal service, public safety and welfare, quality of service, and consumer rights concerns.

Source: 25 SDR 89, effective December 27, 1998.

Rapid City Local Calling Region

There is no long distance charge on calls from your community to those listed below it, if dialed without operator assistance. Just dial the listed number.

Ardmore (453, 459) to:

Hot Springs (745, 890, 891, 899)
Oelrichs (525, 535)
Wind Cave Nat'l Park (745)

Belle Fourche (892) to:

Aladdin, WY (896)*
Colony, WY (896)*
Fruitdale (892)
Nisland (257)

Belvidere (344) to:

Kadoka (837)
Longvalley (462)

Black Hawk (787) to:

Box Elder (923)
Ellsworth Air Force Base (385)
Hermosa (255)
Hill City (574)
Keystone (666)
Piedmont (787)
Rapid City (341, 342, 343, 348,
355, 381, 388, 389, 390, 393,
394, 399, 431, 877)

Box Elder (923) to:

Black Hawk (787)
Ellsworth Air Force Base (385)
Hermosa (255)
Hill City (574)
Keystone (666)
Piedmont (787)
Rapid City (341, 342, 343, 348,
355, 381, 388, 389, 390, 393,
394, 399, 431, 877)

Buffalo Gap (833) to:

Hot Springs (745, 890, 891, 899)
Oral (424)
Wind Cave Nat'l Park (745)

Creighton (457) to:

Quinn (386)
Wall (279)

Deadwood (578, 631, 920) to:

Beulah, WY (643)*
Lead (580, 584, 588, 591)
Spearfish (631, 639, 640, 641,
642, 644, 645)
Whitewood (269)

Enning (985) to:

Faith (967)
Faith rural (739)
Maurine (748)

Faith (967) &

Faith Rural (739) to:

Enning (985)
Maurine (748)

Hermosa (255) to:

Black Hawk (787)
Box Elder (923)
Ellsworth Air Force Base (385)
Hill City (574)
Piedmont (787)
Rapid City (341, 342, 343, 348,
355, 381, 388, 389, 390, 393,
394, 399, 431, 877)

Hill City (574) to:

Black Hawk (787)
Box Elder (923)
Ellsworth Air Force Base (385)
Hermosa (255)
Keystone (666)
Piedmont (787)
Rapid City (341, 342, 343, 348,
381, 388, 390, 393, 394)

Hot Springs (745, 890,

891, 899) to:

Ardmore (453, 459)
Buffalo Gap (833)
Oelrichs (525, 535)
Oral (424)
Wind Cave Nat'l Park (745)
Interior (433) to:
Kyle (455)
Longvalley (462)
Pine Ridge (867)
Quinn (386)
Wall (279)

Kadoka (837) to:

Belvidere (344)
Longvalley (462)

* These customers are in
Wyoming. When calling
long distance to these
numbers, use area code 307.

Keys

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Rapid City Local Calling Region

Keystone (666) to:
 Black Hawk (787)
 Box Elder (923)
 Ellsworth Air Force Base (385)
 Hill City (574)
 Piedmont (787)
 Rapid City (341, 342, 343, 348, 355, 381, 388, 389, 390, 393, 394, 399, 431, 877)

Kyle (455) to:
 Interior (433)
 Longvalley (462)
 Pine Ridge (867)

Lead (580, 584, 588, 591) to:
 Beulah, WY (643) *
 Deadwood (578, 631, 920)
 Spearfish (639, 640, 641, 642, 644, 645)
 Whitewood (269)

Longvalley (462) to:
 Belvidere (344)
 Interior (433)
 Kadoka (837)
 Kyle (455)
 Pine Ridge (867)

Maurine (748) to:
 Enning (985)
 Faith (967)
 Faith rural (739)

Midland (843) to:
 Philip (859)

Milesville (544) to:
 Philip (859)

New Underwood (754) to:
 Wicksville (798)

Newell (456) to:
 Nisland (257)
 Vale (456)

Nisland (257) to:
 Aladdin, WY (896)*
 Belle Fourche (892)
 Colony, WY (896)*
 Fruitdale (892)
 Newell (456)
 Vale (456)

Oelrichs (525, 535) to:
 Ardmore (453, 459)
 Hot Springs (745, 890, 891, 899)
 Oral (424)
 Wind Cave Nat'l Park (745)

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 Buffalo Gap (833)
 Hot Springs (745, 890, 891, 899)
 Oelrichs (525, 535)
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Philip (859) to:
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 Milesville (544)

Piedmont (787) to:
 Black Hawk (787)
 Box Elder (923)
 Ellsworth Air Force Base (385)
 Hermosa (255)
 Hill City (574)
 Keystone (666)
 Rapid City (341, 342, 343, 348, 355, 381, 388, 389, 390, 393, 394, 399, 431, 877)

Pine Ridge (867) to:
 Interior (433)
 Kyle (455)
 Longvalley (462)
 Whiteclay (862)

Quinn (386) to:
 Creighton (457)
 Interior (433)
 Wall (279)

Rapid City (341, 342, 343, 348, 355, 381, 388, 389, 390, 393, 394, 399, 431, 877) to:

Black Hawk (787)
 Box Elder (923)
 Ellsworth Air Force Base (385)
 Hermosa (255)
 Hill City (574)
 Keystone (666)
 Piedmont (787)

Spearfish (639, 640, 641, 642, 644, 645) to:
 Beulah, WY (643) *
 Deadwood (578, 631, 920)
 Lead (580, 584, 588, 591)
 Whitewood (269)

Vale (456) to:
 Newell (456)
 Nisland (257)

* These customers are in Wyoming. When calling long distance to these numbers, use area code 307.

Rapid City Local Calling Region

There is no long distance charge on calls from your community to those listed below it, if dialed without operator assistance. Just dial the listed number.

Wall (279) to
Creighton (457)
Interior (433)
Quinn (386)
Wasta (993)

Wasta (993) to
Wall (279)
Wicksville (798)

Whitewood (269) to
Beulah, WY (643)*
Deadwood (578, 631, 920)
Lead (580, 584, 588, 591)
Spearfish (639, 640, 641, 642,
644, 645)

Wicksville (798) to
New Underwood (754)
Wasta (993)

Wind Cave Nat'l Park (745) to
Hot Springs (745, 890, 891, 899)

*These customers are in Wyoming. When calling long distance to these numbers, use area code 307.

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

IN THE MATTER OF THE APPLICATION OF)	ORDER GRANTING
BLACK HILLS FIBERCOM, L.L.C. FOR)	APPROVAL TO OFFER A
APPROVAL TO OFFER A DIFFERENT LOCAL)	DIFFERENT CALLING AREA
CALLING AREA)	TC99-056

On May 21, 1999, the South Dakota Public Utilities Commission (Commission) received an application from Black Hills FiberCom, L.L.C. (Black Hills). According to its application, Black Hills submitted the application pursuant to the provisions of ARSD 20:10:32:11, to provide a different local calling area than that which is provided by U S WEST Communications, Inc. (U S WEST).

On May 27, 1999, the Commission electronically transmitted notice of the filing and the intervention deadline of June 11, 1999, to interested individuals and entities. On June 11, 1999, U S WEST filed a Petition for Leave to Intervene. At its regularly scheduled June 22, 1999, meeting, the Commission granted U S WEST's request for intervention. On July 23, 1999, U S WEST filed Interrogatories and a Request for Production of Documents. Black Hills filed its response on August 25, 1999. At its regularly scheduled meeting of October 19, 1999, the Commission considered this matter. Black Hills explained its application. U S WEST stated that it did not oppose the granting of the application. Commission Staff recommended approval of the application.

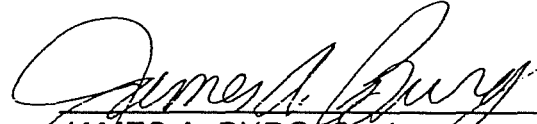
The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31 and ARSD 20:10:32:11. The Commission found that Black Hills had shown that the different calling area would not be contrary to universal service, public safety and welfare, quality of service, and consumer rights concerns. It is therefore

ORDERED, that the application of Black Hills for a different local calling area is hereby approved.


Dated at Pierre, South Dakota, this 29th day of October, 1999.

<p>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><i>Hildene Kalbo</i></u></p> <p>Date: <u>10/29/99</u></p> <p align="center">(OFFICIAL SEAL)</p>
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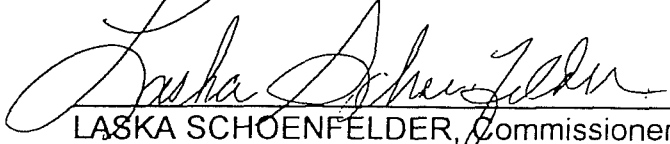
BY ORDER OF THE COMMISSION:



 JAMES A. BURG, Chairman



 PAM NELSON, Commissioner



 LASKA SCHOENFELDER, Commissioner

South Dakota Public Utilities Commission
WEEKLY FILINGS
For the Period of June 27, 2002 through July 3, 2002

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

CONSUMER COMPLAINTS

**CE02-002 In the Matter of the Complaint filed by Tanya Stahl, Huron, South Dakota,
against NorthWestern Public Service Company Regarding Denied Service.**

Complainant states that after moving into her residence, she requested service to be placed in her name. She was told by NorthWestern that it refuses to provide service to her because the former occupant had an outstanding balance with NorthWestern. Complainant states that she was told by NorthWestern that it had a voice recorded conversation where Complainant stated her roommate Chris was moving out so she needed service in her name. Complainant denies making this statement. Complaint requests that NorthWestern be required to connect her service, pay for any damages which were caused by the lack of service, and also to provide a copy of the voice recorded conversation.

Staff Analyst: Mary Healy
Staff Attorney: Kelly Frazier
Date Docketed: 07/03/02
Intervention Deadline: N/A

**CT02-024 In the Matter of the Complaint filed by Dennis Sever, Administrator, on
behalf of Bethany Lutheran Home, Sioux Falls, South Dakota, against
McLeodUSA Telecommunications Services, Inc. Regarding Contract and
Billing Dispute.**

Complainant's representative states that in 2001, that it updated the facility to have high speed internet DSL service. McLeodUSA could not offer this service to the facility, so the Complainant changed its provider to Ionex. By switching to Ionex, the Complainant was also able to receive lower long distance rates than what it received from McLeodUSA. Complainant's representative states that it was told it should be released from the McLeodUSA contract under stipulation #6 "Most Favored Customer" in its contract with McLeodUSA. The Ionex representative then told the Complainant to write a letter of termination to McLeodUSA. Complainant was then double billed from McLeodUSA and Ionex for long distance calls and also assessed a termination fee from McLeodUSA. Complainant has since received notification from McLeodUSA that it has a credit balance and still owes a termination fee. Complainant's representative requests that McLeodUSA release it from any termination fees and pay Complaint \$2,511.42 for the double billings.

Staff Analyst: Mary Healy

Staff Attorney: Kelly Frazier
Date Docketed: 06/27/02
Intervention Deadline: N/A

TELECOMMUNICATIONS

TC02-077 In the Matter of the Establishment of Switched Access Revenue Requirement for Union Telephone Company.

On June 27, 2002, Union Telephone Cooperative, Hartford, South Dakota, filed a switched access cost study developing a revenue requirement and minutes of use that are included in the revenue requirement and minutes of use used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Harlan Best
Staff Attorney: Karen Cremer
Date Docketed: 06/27/02
Intervention Deadline: 07/19/02

TC02-078 In the Matter of the Establishment of Switched Access Revenue Requirement for Bridgewater-Canistota Independent Telephone Company.

On June 27, 2002, the Bridgewater-Canistota Telephone Company filed a switched access cost study developing a revenue requirement and minutes of use that are included in the revenue requirement and minutes of use used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Heather Forney
Staff Attorney: Karen Cremer
Date Docketed: 06/27/02
Intervention Deadline: 07/19/02

TC02-079 In the Matter of the Establishment of Switched Access Revenue Requirement for Kennebec Telephone Company.

On June 27, 2002, Kennebec Telephone Company, Kennebec, South Dakota, filed a switched access cost study developing a revenue requirement and minutes of use that are included in the revenue requirement and minutes of use used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Keith Senger
Staff Attorney: Karen Cremer
Date Docketed: 06/27/02
Intervention Deadline: 07/19/02

TC02-080 In the Matter of the Establishment of Switched Access Revenue

Requirement for Beresford Municipal Telephone Company.

On June 27, 2002, Beresford Municipal Telephone Company, Beresford, South Dakota, filed a switched access cost study developing a revenue requirement and minutes of use that are included in the revenue requirement and minutes of use used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Harlan Best
Staff Attorney: Karen Cremer
Date Docketed: 06/27/02
Intervention Deadline: 07/19/02

TC02-081 In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and New Edge Network, Inc. d/b/a New Edge Networks.

On June 27, 2002, the Commission received for approval a Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation (Qwest) and New Edge Network, Inc. d/b/a New Edge Networks. According to the parties, the Amendment is made in order to add to the Agreement the terms, conditions and rates for Private Line to Unbundled Loop Conversions, as set forth in Exhibit A to the Amendment. Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than July 17, 2002. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier
Date Docketed: 06/27/02
Initial Comments Due: 07/17/02

TC02-082 In the Matter of the Filing by 1-800-RECONEX, Inc. for Approval of its Switched Access Tariff and Rates.

On May 31, 2002, 1-800-RECONEX, (Reconex) Inc. filed an Access Tariff with the Commission. Although Reconex is not yet providing service in the state of South Dakota, they currently provide service in other states via total service resale (TSR.) Reconex now intends to provide service through TSR and unbundled network element platform (UNE-P.)

Staff Analyst: Michele Farris
Staff Attorney: Kelly Frazier
Date Docketed: 06/28/02
Intervention Deadline: 07/19/02

TC02-083 In the Matter of the Filing for Approval of an Adoption Agreement between Qwest Corporation and VP Telecom, Inc.

On July 1, 2002, the Commission received for approval a Filing of Wireline Adoption Interconnection Agreement and ISP Amendment to Agreement between VP Telecom (Telecom) and Qwest Corporation (Qwest). According to the parties, Telecom chooses to adopt, in its entirety, the terms and conditions of the Interconnection Agreement and any associated amendments, if applicable, between Sprint Communications Company and Qwest f/k/a US West Communications, Inc. which was approved by the Commission on November 13, 2001, in Docket No. TC01-151. The filing also includes an ISP Bound Traffic Amendment to the Interconnection Agreement between Telecom and Qwest to change the definitions of "Bill and Keep," "Information Service" and "Information Service Access." Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than July 22, 2002. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier
Date Docketed: 07/01/02
Initial Comments Due: 07/22/02

TC02-084 In the Matter of the Petition of Black Hills FiberCom, L.L.C. for a Declaratory Ruling Regarding ARSD 20:10:32:11 and Alternative Petition for Approval of an Amendment to Black Hills FiberCom, L.L.C.'s Local Calling Area Pursuant to ARSD 20:10:32:11.

Black Hills FiberCom, L.L.C. (FiberCom) has filed a Petition for Declaratory Ruling Regarding Application of ARSD § 20:10:32:11 and Alternative Petition for Approval of an Amendment to Black Hills FiberCom, L.L.C.'s Local Calling Exchange Area Pursuant to ARSD § 20:10:32:11. In its Petition for Declaratory Ruling, FiberCom requests that the Commission find that FiberCom does not need to obtain Commission approval prior to FiberCom charging its customers for utilizing non-network ISP services through Rapid City telephone numbers attached to PRIs purchased from Qwest. If the Commission determines that FiberCom must obtain approval, then FiberCom requests that the Commission approve the proposed amendment to FiberCom's local calling plan.

Staff Attorney: Rolayne Ailts Wiest
Date Docketed: 07/01/02
Intervention Deadline: 07/11/02

TC02-085 In the Matter of the Establishment of Switched Access Rates for Qwest Corporation.

On July 1, 2002, Qwest Corporation filed a switched access cost study "in accordance with ARSD 20:10:27:07....Qwest Corporation is not asking for the Commission to change the switched access rate schedules at this time."

Staff Analyst: Heather Forney
Staff Attorney: Karen Cremer
Date Docketed: 07/01/02

Intervention Deadline: 07/19/02

TC02-086 In the Matter of the Establishment of Switched Access Rates for Fort Randall Telephone Company and Mt. Rushmore Telephone Company.

On July 1, 2002, the Fort Randall Telephone Company and Mount Rushmore Telephone Company filed a switched access cost study developing a revenue requirement and minutes of use that are included in the revenue requirement and minutes of use used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Heather Forney
Staff Attorney: Karen Cremer
Date Docketed: 07/01/02
Intervention Deadline: 07/19/02

TC02-087 In the Matter of the Establishment of Switched Access Rates for DTG Community Telephone.

On July 1, 2002, Dakota Community Telephone, Irene, South Dakota, filed a switched access cost study pursuant to the rules established by the Commission.

Staff Analyst: Harlan Best
Staff Attorney: Karen Cremer
Date Docketed: 07/01/02
Intervention Deadline: 07/19/02

TC02-088 In the Matter of the Establishment of Switched Access Revenue Requirement for Roberts County Telephone Cooperative Association and RC Communications, Inc.

On July 1, 2002, Roberts County Telephone Cooperative Association and RC Communications, Inc., New Effington, South Dakota, filed a switched access cost study developing a revenue requirement and minutes of use that are included in the revenue requirement and minutes of use used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Keith Senger
Staff Attorney: Karen Cremer
Date Docketed: 07/01/02
Intervention Deadline: 07/19/02

TC02-089 In the Matter of the Establishment of Switched Access Revenue Requirement for Tri-County Telcom, Inc.

On July 1, 2002, Tri- County Telecom, Inc., Emery, South Dakota, filed a switched access cost study developing a revenue requirement and minutes of use that are included in the revenue

requirement and minutes of use used to determine the switched access rates for the Local Exchange Carrier Association.

Staff Analyst: Keith Senger
Staff Attorney: Karen Cremer
Date Docketed: 07/01/02
Intervention Deadline: 07/19/02

TC02-090 In the Matter of the Establishment of Switched Access Rates for the Local Exchange Carriers Association.

On July 1, 2002, the Local Exchange Carriers Association (LECA) filed revised switched access tariff pages. The purpose of these revisions is to implement changes in rates as necessitated by revisions in member companies' revenue requirements and access minutes of use.

Staff Analyst: Harlan Best
Staff Attorney: Karen Cremer
Date Docketed: 07/01/02
Intervention Deadline: 07/19/02

TC02-091 In the Matter of the Establishment of Switched Access Rates for South Dakota Network, LLC.

On July 1, 2002, South Dakota Network, LLC (SDN) filed a switched access separations study, pursuant to the rules of the Commission. Revised pages to the SDN Tariff were filed to implement the change in revenue requirement.

Staff Analyst: Harlan Best
Staff Attorney: Karen Cremer
Date Docketed: 07/01/02
Intervention Deadline: 07/19/02

**You may receive this listing and other PUC publications via our website or via internet e-mail.
You may subscribe or unsubscribe to the PUC mailing lists at <http://www.state.sd.us/puc>**



South Dakota Telecommunications Association
PO Box 57 ■ 320 East Capitol Avenue ■ Pierre, SD 57501
605/224-7629 ■ Fax 605/224-1637 ■ sdtasonline.com

Rural roots, global connections

RECEIVED

JUL 11 2002

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

July 11, 2002

Deb Elofson
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

Re: SD-PUC Docket TC02-084

Dear Ms. Elofson:

Enclosed for filing in the above referenced matter are the original and ten (10) copies of an SDTA Petition to Intervene.

Please distribute these as needed to Commissioners and Staff.

Thank you for your assistance.

Sincerely,

Richard D. Coit,
Executive Director
and General Counsel

CLEAR
connections

KELO-TV Sunday nights following the 10 p.m. news

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

**IN THE MATTER OF THE PETITION FOR A)
DECLARATORY RULING REGARDING)
APPLICATION OF ARSD § 20:10:32:11 AND)
ALTERNATIVE PETITION FOR APPROVAL)
OF AN AMENDMENT TO BLACK HILLS)
FIBERCM, L.L.C.'s LOCAL CALLING)
EXCHANGE AREA PURSUANT TO ARSD)
20:10:32:11)**

DOCKET TC02-084

RECEIVED

JUL 11 2002

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

SDTA Petition to Intervene

The South Dakota Telecommunications Association ("SDTA") 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 hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.

2. As expressly noted in the Bylaws of SDTA, duly adopted by the Coalition, "one of the primary purposes for the formation and existence of the South Dakota Telecommunications Association is representation by the Association before the South Dakota Public Utilities Commission." The member companies of SDTA have delegated to the SDTA Board of Directors and its President the authority to intervene on their behalf in PUC proceedings which will or might potentially impact their common interests.

3. On or about July 1, 2002, Black Hills FiberComm, L.L.C. (hereinafter referenced as FiberCom) filed a Petition with the Commission pursuant to SDCL § 1-26-15 and ARSD § 20:10:01:34 seeking a Declaratory Ruling regarding the application of ARSD 20:10:32:11 or, in the alternative, seeking approval pursuant to ARSD 20:10:32:11 of a change in its local calling area. With its Petition, generally, FiberCom is attempting to establish a different local calling area for its data traffic than the local calling area already established and offered for switched voice traffic originated by its customers.

4. The filing by FiberCom requires an interpretation of ARSD § 20:10:32:11. Specifically, the following question is presented for declaratory ruling:

Must FiberCom obtain the Commission's approval, pursuant to the provisions of ARSD 20:10:32:11, prior to FiberCom charging its customers for utilizing non-network ISP services through Rapid City telephone numbers attached to PRI's purchased from Qwest?

5. It is the position of FiberCom that Commission approval is not required under ARSD § 20:10:32:11. According to FiberCom, Commission approval is unnecessary because the proposed change to its local calling will not affect voice communications services and because even, with the change, its local calling plan will continue to provide greater local services (at least for its voice services) than the incumbent carrier Qwest.

6. SDTA seeks intervention in this proceeding based on the interests of its member companies that will very likely be impacted by this proceeding. The FiberCom filing requires the Commission to interpret the provisions of ARSD § 20:10:32:11 and make a determination as to their applicability. Because the issue raised is a matter of first impression before the Commission, SDTA is concerned that any substantive decisions made herein could be precedent setting and affect later similar cases involving SDTA member companies.

7. SDTA has not yet determined its final position in this matter, but based on the impact this proceeding will likely have on similar future cases, SDTA feels compelled to seek intervention and participate in the declaratory ruling comment process.

8. Based on all of the foregoing, SDTA, as an authorized representative of its member companies, is an interested party to this proceeding and seeks intervening party status.

Dated this 14 day of July, 2002.

Respectfully submitted:



THE SD TELECOMMUNICATIONS ASSN.

By: _____

Richard D. Coit

Executive Director and General Counsel


CERTIFICATE OF SERVICE

I hereby certify that an original and ten (10) copies of the foregoing document were hand-delivered on the 11th day of July 2002 to:

Deb Elofson
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

A copy was sent by First Class Mail via U.S. Postal Service to:

Linden Evans, Associate Counsel
Black Hills Corporation
625 Ninth Street
P.O. Box 1400
Rapid City, SD 57709



Richard D. Coit, Executive Director
South Dakota Independent Telephone Coalition
Post Office Box 57
320 East Capitol Avenue
Pierre, South Dakota 57501-0057

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

IN THE MATTER OF THE PETITION OF) BLACK HILLS FIBERCOM, L.L.C. FOR A) DECLARATORY RULING REGARDING ARSD) 20:10:32:11 AND ALTERNATIVE PETITION) FOR APPROVAL OF AN AMENDMENT TO) BLACK HILLS FIBERCOM, L.L.C.'S LOCAL) CALLING AREA PURSUANT TO ARSD) 20:10:32:11)	ORDER GRANTING) INTERVENTION) TC02-084)
--	--

On July 1, 2002, the Public Utilities Commission (Commission) received from Black Hills FiberCom, L.L.C. (FiberCom) a Petition for a Declaratory Ruling Regarding Application of ARSD 20:10:32:11 and Alternative Petition for Approval of an Amendment to Black Hills FiberCom L.L.C.'s Local Calling Exchange Area Pursuant to ARSD 20:10:32:11. In its Petition for Declaratory Ruling, FiberCom requests that the Commission find that FiberCom does not need to obtain Commission approval prior to FiberCom charging its customers for utilizing non-network ISP services through Rapid City telephone numbers attached to PRIs purchased from Qwest. If the Commission determines that FiberCom must obtain approval, then FiberCom requests that the Commission approve the proposed amendment to FiberCom's local calling plan.

On July 3, 2002, the Commission electronically transmitted notice of the filing and the intervention deadline of July 11, 2002, to interested individuals and entities. On July 11, 2002, the Commission received a Petition to Intervene from the South Dakota Telecommunications Association (SDTA).

At it July 23, 2002, meeting, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-76, 49-31-77, 49-31-81, and 49-31-85, and ARSD 20:10:01:34 and 20:10:32:11. The Commission voted to grant SDTA's Petition to Intervene. It is therefore

ORDERED, that SDTA's Petition to Intervene is granted.

Dated at Pierre, South Dakota, this 7th day of August, 2002.

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><i>Silvina Kalbo</i></u>
Date:	<u>8/7/02</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
 JAMES A. BURG, Chairman

Pam Nelson
 PAM NELSON, Commissioner

Robert K. Sahr *by*
 ROBERT K. SAHR, Commissioner *RL*



LINDEN R. EVANS, P.E.
Associate Counsel

Telephone: (605) 721-2305
Facsimile: (605) 721-2550
Email: levans@bh-corp.com

October 10, 2002

RECEIVED

OCT 15 2002

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Ms. Debra Elofson
Executive Director
Public Utilities Commission
Capitol Building, First Floor
500 E. Capital
Pierre, South Dakota 57501-5070

Re: Black Hills FiberCom's Petition for Declaratory Ruling
Docket TC02-084

Dear Ms. Elofson:

I am writing to request that Black Hills FiberCom's Petition be placed on the Commission's calendar as soon as reasonably possible for the Commission.

Without action from the Commission on this subject, FiberCom continues to bear significant expenses related to customers' use of off-network Internet Service Providers.

Your assistance in this matter is greatly appreciated.

Thank you very much.

Sincerely,

BLACK HILLS CORPORATION

Linden R. Evans

LRE/lrs

Cc: Kyle White
Ron Schaible
Rolayne Ailts Wiest
Rich Coit

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

IN THE MATTER OF THE PETITION OF)	ORDER FOR AND NOTICE
BLACK HILLS FIBERCOM, L.L.C. FOR A)	OF HEARING
DECLARATORY RULING REGARDING ARSD)	
20:10:32:11 AND ALTERNATIVE PETITION)	TC02-084
FOR APPROVAL OF AN AMENDMENT TO)	
BLACK HILLS FIBERCOM, L.L.C.'S LOCAL)	
CALLING AREA PURSUANT TO ARSD)	
20:10:32:11)	

On July 1, 2002, the Public Utilities Commission (Commission) received from Black Hills FiberCom, L.L.C. (FiberCom) a Petition for a Declaratory Ruling Regarding Application of ARSD 20:10:32:11 (Petition) and Alternative Petition for Approval of an Amendment to Black Hills FiberCom L.L.C.'s Local Calling Exchange Area Pursuant to ARSD 20:10:32:11 (Alternative Petition). In its Petition, FiberCom requests that the Commission find that FiberCom does not need to obtain Commission approval prior to FiberCom charging its customers for utilizing non-network ISP services through Rapid City telephone numbers attached to PRIs purchased from Qwest. If the Commission determines that FiberCom must obtain approval, then FiberCom requests in its Alternative Petition that the Commission approve the proposed amendment to FiberCom's local calling plan.

On July 3, 2002, the Commission electronically transmitted notice of the filing and the intervention deadline of July 11, 2002, to interested individuals and entities. On July 11, 2002, the Commission received a Petition to Intervene from the South Dakota Telecommunications Association (SDTA). At its July 23, 2002, meeting, the Commission granted intervention to SDTA.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-76, 49-31-77 , 49-31-81, and 49-31-85, and ARSD 20:10:01:34 and 20:10:32:11.

A hearing shall be held on January 24, 2003, beginning at 9:00 A.M., in the Governor's Inn Meeting Room, 700 West Sioux, Pierre, South Dakota. All persons testifying will be subject to cross-examination by the parties.

The issue at the hearing is whether the proposed change to FiberCom's local calling area as set forth on pages 9 and 10 of the Alternative Petition should be approved pursuant to ARSD 20:10:32:11.

The hearing shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an

attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission shall determine whether the proposed change to FiberCom's local calling area as set forth on pages 9 and 10 of the Alternative Petition should be approved pursuant to ARSD 20:10:32:11. The Commission's Final Decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that a hearing shall be held at the time and place specified above on the issue of whether the proposed change to FiberCom's local calling area as set forth on pages 9 and 10 of the Alternative Petition should be approved pursuant to ARSD 20:10:32:11.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 13th day of January, 2003.

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 Kelbo

Date: 1/13/03

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Gary Hanson
GARY HANSON, Commissioner

Robert K. Sahr
ROBERT K. SAHR, Commissioner



Black Hills Corporation

Kyle D. White

Vice President

Corporate Affairs

E-mail: kwhite@bh-corp.com

625 Ninth Street • P.O. Box 1400

Rapid City, SD 57709-1400

P (605) 721-2313

F (605) 721-2599

January 17, 2003

VIA FACSIMILE

Ms. Pam Bonrud, Executive Director
South Dakota Public Utilities Commission
500 east Capitol
Pierre, South Dakota 57501

Dear Ms. Bonrud:

Subject: Request to Withdraw the Petition of Black Hills FiberCom, L.L.C., for a Declaratory Ruling Regarding ARSD 20:10:32:11 and Alternative Petition for Approval of An Amendment to Black Hills FiberCom, L.L.C.'s Local Calling Area Pursuant to ARSD 20:10:32:11 (Docket TC02-084)

Black Hills FiberCom respectfully requests that the Commission allow it to withdraw its petition under Docket TC02-084. Black Hills FiberCom has reviewed the circumstances that led to its filing of the petition with the Commission and has determined that the petition is not the appropriate course of action for remedying the situation described in the petition.

After reviewing the positions of Qwest and the Federal Communications Commission, it has become apparent to us that calls made by customers to Internet service providers (ISPs) are interstate in nature. As a result, these calls fall outside of the local calling plan we have on file with the Commission. After much effort to remedy the situation of our Northern Hills customers calling off-network ISPs served by Qwest (specifically America On-line), Black Hills FiberCom finds it has no other reasonable alternative than to begin billing interstate long distance charges to our customers that are making these calls. Typically, we charge residential customers 7.9 cents per minute for intrastate and interstate long distance. For these calls we are establishing a new interstate long distance classification and a rate of just 5.9 cents per minute. The rate is similar to our current cost of providing this service for our customers. Black Hills FiberCom customers will begin seeing charges for these calls with their bills issued beginning on January 22, 2003. As is always our practice during service transition periods, we intend to be flexible in responding to customers and in helping them find alternatives to these new long distance charges. This change will affect less than 275 customers and materially affect probably less than 100.

RECEIVED

JAN 21 2003

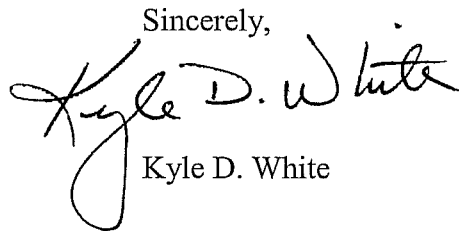
**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

FAX Received JAN 17 2003

Black Hills FiberCom appreciates the attention provided by Staff and Commissioners thus far to our petition, including the scheduling of a hearing. We believe that the outcome of this approach will be better for all of us, now that we understand that this is a federal issue and not a state regulatory issue as we had originally assumed. With our withdrawal of the petitions, the hearing on January 24, 2003, will no longer be necessary. Instead we request that in its place, I have the opportunity to meet with Commissioners and Staff to explain the position taken and answer any questions or concerns.

If you have any questions regarding our request to withdraw the petitions, please contact me or Linn Evans.

Sincerely,

A handwritten signature in black ink that reads "Kyle D. White". The signature is written in a cursive style with a large, looping initial "K".

Kyle D. White

KDW:MJH

c: Ron Schaible, Black Hills FiberCom General Manager
Linn Evans, Black Hills Corporation Associate Counsel
Rolayne Ailts Wiest, SD Public Utilities Commission
Rich Coit, SDITC

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

IN THE MATTER OF THE PETITION OF)	ORDER CANCELLING
BLACK HILLS FIBERCOM, L.L.C. FOR A)	HEARING
DECLARATORY RULING REGARDING ARSD)	
20:10:32:11 AND ALTERNATIVE PETITION)	TC02-084
FOR APPROVAL OF AN AMENDMENT TO)	
BLACK HILLS FIBERCOM, L.L.C.'S LOCAL)	
CALLING AREA PURSUANT TO ARSD)	
20:10:32:11)	

On July 1, 2002, the Public Utilities Commission (Commission) received from Black Hills FiberCom, L.L.C. (FiberCom) a Petition for a Declaratory Ruling Regarding Application of ARSD 20:10:32:11 (Petition) and Alternative Petition for Approval of an Amendment to Black Hills FiberCom L.L.C.'s Local Calling Exchange Area Pursuant to ARSD 20:10:32:11 (Alternative Petition). In its Petition, FiberCom requests that the Commission find that FiberCom does not need to obtain Commission approval prior to FiberCom charging its customers for utilizing non-network ISP services through Rapid City telephone numbers attached to PRIs purchased from Qwest. If the Commission determines that FiberCom must obtain approval, then FiberCom requests in its Alternative Petition that the Commission approve the proposed amendment to FiberCom's local calling plan.

On July 3, 2002, the Commission electronically transmitted notice of the filing and the intervention deadline of July 11, 2002, to interested individuals and entities. On July 11, 2002, the Commission received a Petition to Intervene from the South Dakota Telecommunications Association (SDTA). At its July 23, 2002, meeting, the Commission granted intervention to SDTA.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-76, 49-31-77 , 49-31-81, and 49-31-85, and ARSD 20:10:01:34 and 20:10:32:11.

By order dated January 13, 2003, a hearing was scheduled for January 24, 2003, beginning at 9:00 A.M., in the Governor's Inn Meeting Room, 700 West Sioux, Pierre, South Dakota. On January 17, 2003, the Commission received a letter from FiberCom requesting that its Petition be withdrawn. It is therefore

ORDERED, that the hearing scheduled for January 24, 2003, is cancelled.

Dated at Pierre, South Dakota, this 22nd day of January, 2003.

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> Delaine Kolbo </u>
Date: <u> 1/22/03 </u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

 Robert K. Sahr
ROBERT K. SAHR, Chairman

 Gary Hanson
GARY HANSON, Commissioner

 James A. Burg
JAMES A. BURG, Commissioner

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

IN THE MATTER OF THE PETITION OF) BLACK HILLS FIBERCOM, L.L.C. FOR A) DECLARATORY RULING REGARDING ARSD) 20:10:32:11 AND ALTERNATIVE PETITION) FOR APPROVAL OF AN AMENDMENT TO) BLACK HILLS FIBERCOM, L.L.C.'S LOCAL) CALLING AREA PURSUANT TO ARSD) 20:10:32:11)	ORDER PERMITTING WITHDRAWAL OF FILING AND CLOSING DOCKET TC02-084
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On July 1, 2002, the Public Utilities Commission (Commission) received from Black Hills FiberCom, L.L.C. (FiberCom) a Petition for a Declaratory Ruling Regarding Application of ARSD 20:10:32:11 (Petition) and Alternative Petition for Approval of an Amendment to Black Hills FiberCom L.L.C.'s Local Calling Exchange Area Pursuant to ARSD 20:10:32:11 (Alternative Petition). In its Petition, FiberCom requests that the Commission find that FiberCom does not need to obtain Commission approval prior to FiberCom charging its customers for utilizing non-network ISP services through Rapid City telephone numbers attached to PRIs purchased from Qwest. If the Commission determines that FiberCom must obtain approval, then FiberCom requests in its Alternative Petition that the Commission approve the proposed amendment to FiberCom's local calling plan.

On July 3, 2002, the Commission electronically transmitted notice of the filing and the intervention deadline of July 11, 2002, to interested individuals and entities. On July 11, 2002, the Commission received a Petition to Intervene from the South Dakota Telecommunications Association (SDTA). At its July 23, 2002, meeting, the Commission granted intervention to SDTA.

On January 17, 2003, the Commission received a letter from FiberCom requesting that its Petition be withdrawn.

At its regularly scheduled March 18, 2003, meeting, the Commission considered this matter. The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-76, 49-31-77, 49-31-81, and 49-31-85, and ARSD 20:10:01:34 and 20:10:32:11. The Commission found that FiberCom's request to withdraw its filing is reasonable and closed the docket. It is therefore

ORDERED, that FiberCom shall be permitted to withdraw its filing, and it is further

ORDERED, that this docket is closed.

Dated at Pierre, South Dakota, this 25th day of March, 2003.

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: Helaine Kalbo

Date: 3/26/03

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr

ROBERT K. SAHR, Chairman

Gary Hanson

GARY HANSON, Commissioner

James A. Burg

JAMES A. BURG, Commissioner