

1604-001

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In the Matter of - IN THE MATTER OF THE SETTLEMENT AGREEMENT BETWEEN THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION AND TALK TOO ME, L.L.C., A LIMITED LIABILITY COMPANY UNDER DELAWARE LAW, D/B/A 00 OPERATOR SERVICES, AND D/B/A AMERICAN DIRECTORY SERVICES

Public Utilities Commission of the State of South Dakota

| DATE | MEMORANDA |
|---------|---------------------------------------|
| 1/5 04 | Filed andocketed; |
| 1/8 04 | Weekly Filing |
| 4/28 04 | Settlement Agreement; |
| 4/28 04 | Order Approving Settlement Agreement; |
| 2/26 04 | Docket Closed |
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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

| | |
|---|----------------------------|
| IN THE MATTER OF THE SETTLEMENT) | MOTION FOR APPROVAL |
| AGREEMENT BETWEEN THE SOUTH) | OF SETTLEMENT |
| DAKOTA PUBLIC UTILITIES COMMISSION) | AGREEMENT |
| AND TALK TOO ME, L.L.C., A LIMITED) | |
| LIABILITY COMPANY UNDER DELAWARE) | TC04-001 |
| LAW, D/B/A 00 OPERATOR SERVICES, AND) | |
| D/B/A AMERICAN DIRECTORY SERVICES) | |

Comes now Kelly D. Frazier, Staff Attorney for the South Dakota Public Utilities Commission (Commission), and hereby Petitions the Commission to accept the Settlement Agreement attached as Exhibit A to this Motion. In support of this Motion, Staff states as follows:

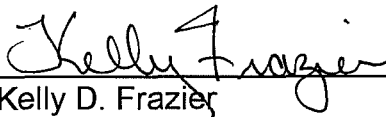
1. In July 2003, Commission Staff began receiving complaints from South Dakota consumers alleging that they were billed for collect long distance phone calls which they claimed they did not accept.
2. Staff investigated the complaints and determined that all of the suspect bills appeared to be coming from TALK TOO ME, L.L.C., a limited liability company under Delaware law, d/b/a 00 OPERATOR SERVICES, and d/b/a AMERICAN DIRECTORY SERVICES. Each bill was in the name of 00 Operator. A redacted copy of the bill is attached as Exhibit B.
3. Staff also determined that all of the collect calls were initiated from the same number: (505) 524-4104.
4. Staff sent a subpoena to 00 Operator requesting that it provide the name and number of every South Dakota citizen or business that was billed for receiving a collect phone call from that number.
5. The company complied with the subpoena and provided documentation showing that a total of 225 individuals and businesses had been billed for receiving collect phone calls from the suspect number.
6. Staff then sent a letter to all South Dakota individuals and businesses on the list to advise them of Staff's investigation.
7. Based on the responses we received from the letters and the information provided by the company, Staff has determined that ten consumers actually paid the \$28.84 bill.
8. Staff entered into settlement negotiations with 00 Operator as a result of the investigation and ultimately came to the Settlement Agreement which is attached as Exhibit A.

9. It is Staff's position that acceptance of this Settlement Agreement is in the best interest of South Dakota consumers in that it provides a full \$28.84 refund to all people who have paid the bill. The Agreement also compensates the State \$1000 for the costs of the investigation. Finally, the Agreement contains an injunction which serves to protect South Dakota consumers from potential future harm.

10. The company has already issued a \$1000 check payable to the Commission along with individual checks in the amount of \$28.84 written directly to the consumers who paid the bill. If the Commission accepts Staff's recommendation and enters into the agreement, all payments would be immediate.

WHEREFORE, Staff here Motions this Commission accept the proposed Settlement Agreement and authorize our Executive Director, Pamela Bonrud, or some other authorized member of the Commission to execute the Agreement.

Signed and dated this 5th day of January, 2004



Kelly D. Frazier
Staff Attorney

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

RECEIVED

DEC 30 2003

IN RE THE MATTER OF THE SETTLEMENT)
AGREEMENT BETWEEN THE SOUTH)
DAKOTA PUBLIC UTILITIES COMMISSION)
AND TALK TOO ME, L.L.C., a limited liability)
Company under Delaware law, d/b/a 00 OPERATOR)
SERVICES, and d/b/a AMERICAN DIRECTORY)
SERVICES)

TC03-_____ SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

SETTLEMENT TERMS

Pursuant to a SETTLEMENT AGREEMENT between The South Dakota Public Utilities Commission and Talk Too Me, LLC ("TTM"), the parties have agreed to the entry of this Final Agreement without trial or adjudication of any issue of fact or law, and without admission of any of the violations of the Act alleged in the complaint. The terms and conditions of the Agreement between the parties, in its totality, is as follows:

I. INJUNCTION

By this Agreement, TTM, directly or through any corporation, partnership, subsidiary, division, or other device, including, but not limited to, any successor corporation permanently agrees to be enjoined from:

1. Providing operator services or arranging to provide the same to any person or entity for the purpose of placing or attempting to place collect calls to South Dakota consumers for the purpose of directing telemarketing solicitations to such consumers;
2. Representing, expressly or by implication, to South Dakota consumers that they are legally obligated to pay TTM's collect call charges unless such is the case;
3. Directing "Final Notices" to South Dakota consumers for charges allegedly incurred by accepting collect calls when TTM has not directed any previous notices to such consumers or caused such notices to be sent;
4. Representing, expressly or by implication, to South Dakota consumers that they are obliged to make payment on any disputed billing which is the subject of this Settlement Agreement.
5. Taking any action to adversely effect the credit rating of any eligible South Dakota consumer over any billing which is the subject of this Settlement Agreement.

II. RESTITUTION

TTM shall provide a refund, in the amount of \$317.24 to reflect a \$28.84 refund of all TTM charges paid by eligible South Dakota consumers. For the purposes of this Settlement Agreement an "eligible consumer" shall mean a South Dakota consumer who has complained to the TTM, the South Dakota Public Utilities Commission or any other regulatory or law enforcement agency, about any of



the TTM charges which are the subject of the Agreement, or otherwise has complained that TTM's charges were unauthorized.

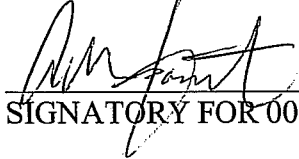
TTM shall submit 11 cashier's or certified checks in the amount of \$28.84 payable to the 11 (eleven) eligible consumers listed on attachment A, which is attached to this Agreement and incorporated by reference. *(Attachment A will be the 11 consumers listed in the Excel spreadsheet submitted yesterday to Wayne Campbell for OO Operator)*

III. PAYMENT TO STATE

TTM shall reimburse the South Dakota Public Utilities Commission the amount of \$1,000.00 for the costs of the investigation. Payment shall be in the form of a cashier's or certified check made payable to the South Dakota Public Utilities. This amount is not to be construed as a fine or civil penalty or an admission of wrongdoing. The defendants shall mail or hand-deliver said sum of \$1,000.00 to the South Dakota Public Utilities Commission at 500 East Capitol Ave., Pierre, SD 57501-5070.

Dated this 23 day of December, 2003

Dated this _____ day of _____, 2003



SIGNATORY FOR OO OPERATOR

SIGNATORY FOR PUC

PAGE 1 OF 2

00 Operator OPERATOR SERVICES

Telephone Number: [REDACTED]
Statement Number: [REDACTED]
Statement Date: May 1, 2003

How to Reach Us

Please see page 2 for 00 Operator contact information.

ACCOUNT SUMMARY [REDACTED]

CURRENT CHARGES

Charges and credits for [REDACTED]
Operator Assisted Calls

To avoid late payment fees, penalties and collection charges payment must be received by May 31, 2003. Please see page 2 for our Late Payment Policy.

Operator Services

- AT&T
- MCI
- McLeodUSA
- Sprint/ASC
- Telecom*USA
- Qwest
- 00 Operator

| 1 Date | Time | Called from | Called to | Type* | Period | Min. | Amount | |
|--------|----------|-------------|------------|-------|--------|------|--------|----------|
| Nov-13 | 12:24 PM | 5055244104 | [REDACTED] | Col | Day | 3 | 25.92 | |
| | | | | | | | Total | \$ 25.92 |

*Opr = operator dialed call 3rd = third party call
Col = collect call Spl = special collect call

TAXES AND FEES ON REGULATED SERVICES

- 1+ Long Distance
- MCI
- Primus
- Qwest

| | |
|------------------------------------|-------------|
| 2 Federal Excise tax at 3% | 0.78 |
| 3 Number Portability | 0.25 |
| 4 Universal Service Fee at 7.2805% | 1.89 |
| Total | 2.92 |

Directory Assistance

- Bell South

Total regulated service charges \$ 28.84

FINAL NOTICE

Please pay by due date to avoid late payment fees, penalties and collection charges.

Detach and return the coupon below with your check payable to 00 Operator

00 Operator
PO Box 939
Sarasota, FL 34230-0939

TELEPHONE NUMBER: [REDACTED]
STATEMENT NUMBER: [REDACTED]

313*CHTR2
00006343 67000000000000
22-018 4438

| Current Charges Due | Total Due |
|---------------------|----------------|
| May 31, 2003 | \$28.84 |

-Final Notice-

Amount Paid
\$.

Please mail payment to:

0046549 [REDACTED]

0182

00 Operator
PO Box 939
Sarasota, FL 34230-0939



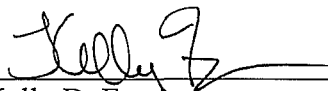
**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

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|---|---|------------------------|
| IN THE MATTER OF THE SETTLEMENT |) | |
| AGREEMENT BETWEEN THE SOUTH |) | TC04-001 |
| DAKOTA PUBLIC UTILITIES COMMISSION |) | |
| AND TALK TOO ME, L.L.C., a limited liability |) | CERTIFICATE OF SERVICE |
| Company under Delaware law, d/b/a 00 OPERATOR |) | |
| SERVICES, and d/b/a AMERICAN DIRECTORY |) | |
| SERVICES |) | |

I hereby certify that a true and correct copy of the Motion For Approval Of Settlement Agreement was served on the Defendant in the above captioned Docket via first class mail sent to Counsel for the Company on the 5th day of January, 2004 to the following :

E. Wayne Campbell
Attorney for 00 Operator
14100 San Pedro, Suite 608
San Antonio, TX 78232

Signed and dated this 5th day of January, 2004.



Kelly D. Frazier
Staff Attorney
Public Utilities Commission
500 East Capitol Ave.
Pierre, SD 57501-5070
(605) 773-3201
(605) 773-3809 fax

South Dakota Public Utilities Commission
WEEKLY FILINGS
For the Period of January 1 through January 7, 2004

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: 605-773-3201

TELECOMMUNICATIONS

TC04-001 In the Matter of the Settlement Agreement between the South Dakota Public Utilities Commission and Talk Too Me, L.L.C., a Limited Liability Company under Delaware Law, d/b/a 00 Operator Services, and d/b/a American Directory Services.

On January 5, 2004, staff filed a Motion For Approval Of Settlement Agreement with the Commission. According to the filing, staff and Talk Too Me, L.L.C., a limited liability Company under Delaware law, d/b/a 00 Operator Services, and d/b/a American Directory Services, have reached an agreement regarding allegations of unauthorized billings. The Settlement Agreement was filed with the Commission for approval.

Staff Attorney: Kelly Frazier
Date Docketed: 01/05/04
Initial Comments Due: NA

TC04-002 In the Matter of the Filing for Approval of Statement of Generally Available Terms And Conditions For Interconnection, Unbundled Network Elements, Ancillary Services and Resale of Telecommunications Services between Qwest Corporation and Sprint Communications Company, LP

On January 7, 2004, the Commission received a Filing for Approval of Statement of Generally Available Terms And Conditions For Interconnection, Unbundled Network Elements, Ancillary Services and Resale of Telecommunications Services between Qwest Corporation (Qwest) and Sprint Communications Company, LP (Sprint). According to the parties, the Agreement is a negotiated agreement which sets forth the terms, conditions and prices under which Qwest will provide services for resale to Sprint for the provision of local exchange services. 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 January 27, 2004. 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: 01/07/04
Initial Comments Due: 01/27/04

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You may subscribe or unsubscribe to the PUC mailing lists at <http://www.state.sd.us/puc>

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

RECEIVED

JAN 28 2004

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

IN RE THE MATTER OF THE SETTLEMENT)
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SERVICES)

TC04-001

TC03-_____

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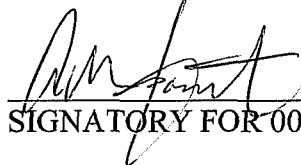
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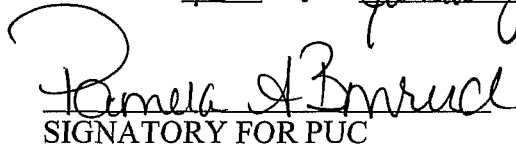
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Dated this 23 day of December, 2003



SIGNATORY FOR 00 OPERATOR

Dated this 28th day of January, 2004



SIGNATORY FOR PUC

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

| | |
|---|---|
| IN THE MATTER OF THE SETTLEMENT) AGREEMENT BETWEEN THE SOUTH) DAKOTA PUBLIC UTILITIES COMMISSION) AND TALK TOO ME, L.L.C., A LIMITED) LIABILITY COMPANY UNDER DELAWARE) LAW, D/B/A 00 OPERATOR SERVICES, AND) D/B/A AMERICAN DIRECTORY SERVICES) | ORDER APPROVING SETTLEMENT AGREEMENT TC04-001 |
|---|---|

On January 5, 2004, Staff filed a Motion For Approval Of Settlement Agreement with the Public Utilities Commission (Commission). According to the filing, Staff and Talk Too Me, L.L.C., a limited liability company under Delaware law, d/b/a 00 Operator Services, and d/b/a American Directory Services, have reached an agreement regarding allegations of unauthorized billings. The Settlement Agreement was filed with the Commission for approval.

On January 8, 2004, the Commission electronically transmitted notice of the filing to interested individuals and entities.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31.

At its regularly scheduled meeting of January 20, 2004, the Commission considered the Motion for Approval of Settlement Agreement. The Commission voted to approve the Settlement Agreement. It is therefore

ORDERED, that the Settlement Agreement is approved. The Settlement Agreement is incorporated by reference into this Order the same as if it had been set forth in its entirety herein.

Dated at Pierre, South Dakota, this 28th day of January, 2004.

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| 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>Melaine Kolbo</u> |
| Date: <u>1/28/04</u> |
| (OFFICIAL SEAL) |

BY ORDER OF THE COMMISSION:

Robert K. Sahr
ROBERT K. SAHR, Chairman

Gary Hanson
GARY HANSON, Commissioner

Kolbo, Delaine

From: Frazier, Kelly
Sent: Thursday, February 26, 2004 10:00 AM
To: Kolbo, Delaine
Cc: Wiest, Rolayne
Subject: TC04-001 CLOSURE

Delaine,

At the end of the last meeting on this Docket the Commission accepted the Settlement with the company and directed me to send the checks to the consumers. That has been done and my recommendation is that the docket should now be closed, as all issues have been resolved and all payments presumably received. Thank you.

Sincerely,

Kelly D. Frazier
Staff Attorney
South Dakota Public Utilities Commission
500 E. Capitol Ave.
Pierre, SD 57501-5070
kelly.frazier@state.sd.us
(605) 773-3201
(605) 773-3809 fax