

KC/AB  
RW

DOCKET NO. \_\_\_\_\_

In the Matter of IN THE MATTER OF THE REQUEST OF  
DICKEY RURAL COMMUNICATIONS,  
INC. FOR CERTIFICATION REGARDING  
ITS USE OF FEDERAL UNIVERSAL  
SERVICE SUPPORT

**Public Utilities Commission of the State of South Dakota**

DATE	MEMORANDA
9/7 04	<i>Filed and Docketed;</i>
9/9 04	<i>Weekly Filing;</i>
9/30 04	<i>Order Granting Certification;</i>
9/30 04	<i>Docket Closed.</i>

TC04-195



Dickey Rural Telephone Cooperative  
Dickey Rural Communications, Inc.  
Dickey Rural Services, Inc.  
Dickey Rural Access, Inc.

August 30, 2002

RECEIVED  
SEP 07 2004  
SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

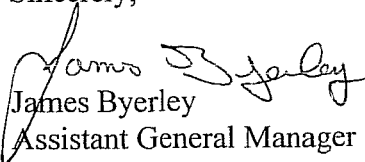
Pam Bonrud, Executive Director  
South Dakota Public Utilities Commission  
Capitol Building, 1<sup>st</sup> Floor  
500 E Capitol Avenue  
Pierre, SD 57501-5070

Dear Ms. Bonrud:

Please find enclosed requests of Dickey Rural Telephone Cooperative, Dickey Rural Communications, Inc., and ~~Dickey Rural Access, Inc.~~<sup>CRS</sup> for certification regarding use of FEDERAL UNIVERSAL SERVICE FUNDS (FUSF).

If you have any questions, please do not hesitate to contact me at 701-344-6001.

Sincerely,

  
James Byerley  
Assistant General Manager

JB/sb

Enc.

SEP 07 2004

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

**IN THE MATTER OF THE REQUEST OF**  
**DICKEY RURAL COMMUNICATIONS, INC.**  
**FOR CERTIFICATION**  
**REGARDING ITS USE OF FEDERAL UNIVERSAL**  
**SERVICE SUPPORT**

**DOCKET NO. \_\_\_**

**REQUEST FOR CERTIFICATION**

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

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

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

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

2. The certification required for rural carriers to receive federal universal service support for all four quarters during calendar year 2005 is currently due to be filed with the FCC and USAC on or before October 1, 2004. The certification may be presented to these entities in the form of a letter from the State Commission. The letter must identify which carriers in the State are eligible to receive federal support during the 12-month period and must certify that the carriers listed will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

3. Dickey Rural Communications, Inc. is a rural telephone company that has previously been designated by this Commission as an eligible telecommunications carrier. The Company provides local exchange telephone services, including all of the essential services that are included in the federal definition of universal service, to approximately forty-six (46) access lines in parts of 4 exchanges within its established rural service area in South Dakota.

4. This Commission has limited regulatory oversight over Dickey Rural Communications, Inc. and its provisioning of local exchange services. Under SDCL § 49-31-5.1, the local exchange service rates charged by telecommunications cooperatives, municipal telephone systems, and independent telephone companies serving less than fifty thousand local exchange subscribers are not subject to the Commission's ratemaking authority. In cases where State Commissions have limited regulatory authority over rural carriers, the FCC has indicated that these carriers should themselves initiate the certification process by presenting a plan to ensure compliance with the requirement in 47 U.S.C. § 254(e) that universal service support will only be used for the provision, maintenance, and upgrading of facilities and services for which

the support is intended. Based on this filed plan, it is anticipated that the State Commission may make the appropriate certification to the FCC.<sup>2</sup>

5. The purpose of this filing is to provide information constituting Dickey Rural Communications, Inc. plan for the use of its federal universal service support and to otherwise verify that Dickey Rural Communications, Inc. will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. § 254.

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

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

7. The FCC has declined to dictate specifically how the states should ensure that carriers are using federal universal service support consistent with the federal law, but has offered

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<sup>2</sup> Fourteenth Report and Order, ¶ 188.

examples of how the support can be used to appropriately further universal service goals. The FCC has stated:

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

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

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

9. Dickey Rural Communications, Inc. as a designated eligible telecommunications carrier has received federal universal service support in the past and expects to receive support during calendar year 2005. As of this time, specific support amounts the Company should receive in 2005 have not yet been identified by USAC. Included in Exhibit A attached hereto, however, are estimated universal service support amounts for such period.

10. The Company also provides in Exhibit A, attached hereto, estimates of the expenditures that will be incurred in year 2005 for the provision, maintenance, and upgrading of facilities and services supported by federal universal service. Consistent with the universal service principles set forth in the federal law and also the FCC orders referenced herein. The Company will use federal universal service amounts received in 2005 to offset a portion of 2005 expenditures incurred within the accounts referenced in Exhibit A. This use of federal universal service support will enable the Company to: (1)

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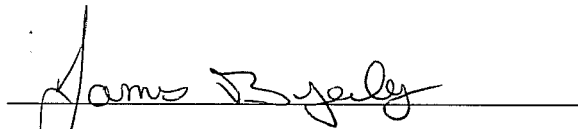
<sup>3</sup> Ninth Report and Order and Eighteenth Order on Reconsideration in CC Docket No. 96-45 (In the Matter of the Federal-State Joint Board on Universal Service), FCC 99-306, ¶ 96, November 2, 1999.

maintain rates for its local exchange services that are affordable and reasonably comparable to rates being charged for the same services in urban areas; and (2) to upgrade its telecommunications facilities and equipment as necessary to meet evolving service requirements and maintain high quality service. The use of federal universal service support for these purposes is clearly consistent with the federal universal service provisions.

11. Based on the foregoing information, the attached Exhibit A, Exhibit B, and Exhibit C, Affidavit of James Byerley, the Company requests that this Commission issue an appropriate certification to the FCC and USAC indicating that Dickey Rural Communications, Inc. is in compliance with 47 U.S.C. § 254(e) and should receive all federal universal service support determined for distribution to the Company in 2005. In order to ensure that this certification is issued to the FCC prior to October 1, 2004, the Company would further ask the Commission to expedite the process that is initiated based on this filing.

Dated this 3rd day of September, 2004.

Respectfully submitted,

A handwritten signature in cursive script, reading "James Byerley", is written over a solid horizontal line.

James Byerley, Assistant General Manager

CONFIDENTIAL

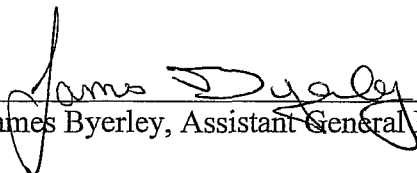
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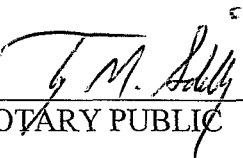
**EXHIBIT B**

**AFFIDAVIT**

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

  
James Byerley, Assistant General Manager

Subscribed and Sworn to before me this \_\_\_\_ day of September, 2004.

  
NOTARY PUBLIC

**TROY M. SCHILLING**  
Notary Public  
State of North Dakota  
My Commission Expires Dec. 11, 2006

My Commission expires:

CONFIDENTIAL

#2

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**South Dakota Public Utilities Commission**  
**WEEKLY FILINGS**  
**For the Period of September 2, 2004 through September 8, 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

**NATURAL GAS**

**NG04-010**     **In the Matter of the Request of MidAmerican Energy Company to Withdraw its IGSP Six Month Filing for November 2003 through April 2004 and Replace with Revised Report.**

Application by MidAmerican Energy Company to revise the calculation of actual costs in the November 2003 through April 2004 Incentive Gas Supply Procurement Program. MidAmerican proposes to utilize estimated final interstate pipeline rates for Northern Natural Gas Company in place of actual interim rates now in effect in an effort to more accurately reflect costs that will result from Northern's current rate case proceeding before the FERC.

Staff Attorney: Dave Jacobson  
Staff Analyst: Karen Cremer  
Date Filed: 09/08/04  
Intervention Deadline: 09/24/04

**TELECOMMUNICATIONS**

**TC04-192**     **In the Matter of the Filing for Approval of an Adoption Agreement between Qwest Corporation and Southwestern Bell Communications Services, Inc. d/b/a SBC Long Distance.**

On September 2, 2004, the Commission received a Filing for Approval of an Adoption Agreement between Qwest Corporation and Southwestern Bell Communications Services, Inc. d/b/a SBC Long Distance (Southwestern). According to the parties, Southwestern has chosen "to adopt, in its entirety, the terms and conditions of Qwest Corporation's Statement of Generally Accepted Terms (SGAT) and Associated Exhibits for the State of South Dakota." 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 September 22, 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: Rolayne Ailts Wiest  
Date Filed: 09/02/04  
Initial Comments Due: 09/22/04

**TC04-193**     **In the Matter of the Filing for Approval of an Adoption Agreement between Qwest Corporation and Talk America Inc.**

On September 2, 2004, the Commission received a Filing for Approval of an Adoption Agreement between Qwest Corporation and Talk America Inc. (Talk America). According to the parties, Talk America has chosen "to adopt, in its entirety, the terms and conditions of Qwest Corporation's

Statement of Generally Accepted Terms (SGAT) and Associated Exhibits for the State of South Dakota." 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 September 22, 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: Rolayne Ailts Wiest  
Date Filed: 09/02/04  
Initial Comments Due: 09/22/04

**TC04-194 In the Matter of the Request of Dickey Rural Telephone Cooperative for Certification Regarding its Use of Federal Universal Service Support.**

On September 7, 2004, Dickey Rural Telephone Cooperative (Dickey Rural) provided information constituting Dickey Rural's plan for the use of its federal universal service support and to otherwise verify that Dickey Rural will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. Section 254.

Staff Analyst: Harlan Best  
Staff Attorney: Karen E. Cremer  
Date Filed: 09/07/04  
Intervention Deadline: 09/17/04

**TC04-195 In the Matter of the Request of Dickey Rural Communications, Inc. for Certification Regarding its Use of Federal Universal Service Support.**

On September 7, 2004, Dickey Rural Communications, Inc. (Dickey Rural) provided information constituting Dickey Rural's plan for the use of its federal universal service support and to otherwise verify that Dickey Rural will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. Section 254.

Staff Analyst: Harlan Best  
Staff Attorney: Karen E. Cremer  
Date Filed: 09/07/04  
Intervention Deadline: 09/17/04

**TC04-196 In the Matter of the Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between WWC License LLC and Sioux Valley Telephone Company.**

On September 8, 2004, the Commission received a Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between Sioux Valley Telephone Company and WWC License LLC. According to the parties, the "Agreement sets forth the terms, conditions and prices under which (a) the Parties agree to directly interconnect the networks of the CMRS Provider and the Telephone Company for the purposes of the exchange of telecommunications traffic between the Parties' networks or (b) the Parties will transport and terminate the telecommunications traffic originated by the other Party and delivered via the network of a Third Party Provider." 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 September 28, 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: Rolayne Ailts Wiest  
Date Filed: 09/08/04  
Initial Comments Due: 09/28/04

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



Bob Sahr, Chair  
Gary Hanson, Vice-Chair  
Jim Burg, Commissioner

## SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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Transportation/Warehouse  
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Consumer Hotline  
1-800-332-1782

September 30, 2004

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street S.W., Room TW-A306  
Washington, DC 20554

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
9300 East Hampton Drive  
Capitol Heights, MD 20743

Ms. Irene Flannery  
Universal Service Administrative Company  
2000 L Street N.W., Suite 200  
Washington, DC 20036

Re: CC Docket No. 96-45

Annual State Certification of Support for Rural Carriers and Non-Rural Carriers

Dear Ms. Dortch and Ms. Flannery:

The South Dakota Public Utilities Commission (Commission) hereby states that the following rural and non-rural incumbent local exchange carriers and/or eligible telecommunications carriers within its jurisdiction have been certified to receive support pursuant to 47 CFR §§ 54.301, 54.305, 54.307, and/or 54.309 and/or part 36, subpart F. The carriers listed below filed requests for certification with the Commission which support their affirmations that all federal high-cost support provided to them will be used only for the provision, maintenance, and upgrading of facilities and services for which the support is intended, consistent with section 254(e) of the Communications Act.

The Commission has granted certification to the following rural incumbent local exchange carriers and/or eligible telecommunications carriers:

Dickey Rural Communications, Inc. (381611) (co. no. 1681)  
Dickey Rural Telephone Cooperative (381611) (co. no. 1611)  
Farmers Mutual Telephone Company (361389)  
Hills Telephone Company, Inc. (Contingent upon completion of sale of exchanges by Sioux Valley Telephone Company to Hills Telephone - See enclosed order.)

The Commission has granted certification to the following non-rural eligible telecommunications carriers:

Black Hills FiberCom, L.L.C. (competitive ETC)  
Midcontinent Communications (competitive ETC)

Enclosed are the Orders Granting Certification to the above-referenced rural and non-rural incumbent local exchange carriers and/or eligible telecommunications carriers. Should you have any questions, please do not hesitate to contact us for further information.

Sincerely,



Robert K. Sahr  
Chairman



Gary Hanson  
Commissioner



James A. Burg  
Commissioner

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

<b>IN THE MATTER OF THE REQUEST OF )</b>	<b>ORDER GRANTING</b>
<b>DICKEY RURAL COMMUNICATIONS, INC. FOR )</b>	<b>CERTIFICATION</b>
<b>CERTIFICATION REGARDING ITS USE OF )</b>	
<b>FEDERAL UNIVERSAL SERVICE SUPPORT )</b>	<b>TC04-195</b>

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

The certification required for rural carriers to receive federal universal support for all four quarters during calendar year 2005 is currently due to be filed with the FCC and USAC on or before October 1, 2004. The certification may be presented to these entities in the form of a letter from the State Commission. The letter must identify which carriers in the state are eligible to receive federal support during the 12-month period and must certify that the carriers listed will only use the support for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

On September 7, 2004, the South Dakota Public Utilities Commission (Commission) received a filing from Dickey Rural Communications, Inc. (Company) regarding its Request for Certification Regarding its Use of Federal Universal Service Support. The purpose of this filing was to provide information constituting Company's plan for the use of its federal universal service support and to otherwise verify that Company will use all federal

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



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

On September 9, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of September 17, 2004, to interested individuals and entities. No parties sought intervention.

At its regularly scheduled meeting of September 30, 2004, the Commission considered this matter.

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

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

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

Dated at Pierre, South Dakota, this 30th day of September, 2004.

<b>CERTIFICATE OF SERVICE</b>	
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>Neilson Kallos</u>
Date:	<u>9/30/04</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