

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

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

SEP 17 2004
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

DOCKET NO. ___

REQUEST FOR CERTIFICATION

Farmers Mutual Telephone 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, *Farmers Mutual Telephone Company* 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.¹ This Order (hereafter referenced as the “Fourteenth Report and Order”), in part, codifies at 47 C.F.R. § 54.314, a requirement for States to provide a certification regarding federal universal service support that is received by rural incumbent local exchange carriers and/or 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,

¹ 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.

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 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. *Farmers Mutual Telephone Company* 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 35 access lines within its established rural service area in South Dakota.

4. This Commission has limited regulatory oversight over *Farmers Mutual Telephone Company* 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.²

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

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

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

² Fourteenth Report and Order, ¶ 188.

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

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

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

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

9. *Farmers Mutual Telephone Company* 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. \$250,000

10. *Farmers Mutual Telephone 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, *Farmers Mutual Telephone Company* will use federal universal service amounts received

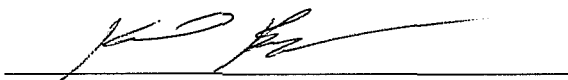
³ Ninth Report and Order and Eighteenth Order on Reconsideration in CC Docket No. 96-45 (In the Matter of the Federal-State Joint Board on Universal Service), FCC 99-306, ¶ 96, November 2, 1999.

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 *Farmers Mutual Telephone Company* to: (1) maintain rates for its local exchange services that are affordable and reasonably comparable to rates being charged for the same services in urban areas; and (2) to upgrade its telecommunications facilities and equipment as necessary to meet evolving service requirements and maintain high quality service. The use of federal universal service support for these purposes is clearly consistent with the federal universal service provisions.

14. Based on the foregoing information, the attached Exhibit A and Exhibit B, Affidavit of Kevin Beyer, *Farmers Mutual Telephone Company* requests that this Commission issue an appropriate certification to the FCC and USAC indicating that *Farmers Mutual Telephone Company* 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, *Farmers Mutual Telephone Company* would further ask the Commission to expedite the process that is initiated based on this filing.

Dated this 16th day of September, 2004.

Respectfully submitted,



Kevin Beyer
General Manager
Farmers Mutual Telephone Company
301 2nd Street South
PO Box 368
Bellingham, Minnesota 56212
(320) 568-2105

Exhibit A
Farmers Mutual Telephone Company

Estimated Year 2005 Federal Universal Service Receipts

High cost loop support	\$135,000.00
Local switching support	\$115,000.00
Safety Net Additive support	\$ 0
Safety Valve Loop Cost Adjustment	\$ <u>0</u>
TOTAL	\$250,000.00

Estimated Year 2005 Expenditures For Provision, Maintenance, and Upgrading Of Facilities and Services Supported By Federal Universal Service Funding

Estimated Plant Specific Operations Expenses

Network support (Accts. 6110-16)	\$ 0
General support (Accts. 6120-24)	\$ 20,000.00
Central office (Accts. 6210-6232)	\$ 100,000.00
Cable and wire facilities (Accts. 6410-6441)	\$ 200,000.00
Network operations (Accts. 6530-35)	\$ 20,000.00
Depreciation and amortization (Accts. 6560-65)	\$ 450,000.00

Customer operations expenses

Customer services (Accts. 6620-23)	\$ 150,000.00
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Corporate operations expenses

Executive and planning (Accts. 6710-6712)	\$ 140,000.00
General and administrative (Accts. 6720-28)	\$ <u>150,000.00</u>

Estimated Total Recurring Year 2005 Supported Expenses, from above, Before Return On Investment **\$1,230,000.00**

Estimated Additions

Switching (Acct. 2210)	\$ 200,000.00
Cable and wire (Acct. 2410)	\$ <u>200,000.00</u>
TOTAL	\$ 400,000.00

Estimated Total Year 2005 Supported Expenditures, Before Return On Investment **\$1,630,000.00**

EXHIBIT B

AFFIDAVIT

As an authorized corporate officer of *Farmers Mutual Telephone Company*, I, Kevin Beyer, General Manager 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 *Farmers Mutaul Telephone Company* 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).



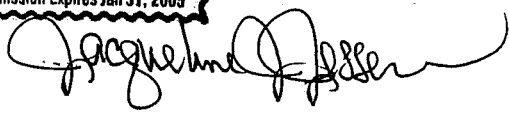
Kevin Beyer

Subscribed and Sworn to before me this 16th day of September, 2004.

NOTARY PUBLIC



Commission expires 01/31/2005



South Dakota Public Utilities Commission
WEEKLY FILINGS

For the Period of September 9, 2004 through September 16, 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

ELECTRIC

EL04-027 In the Matter of the Application of Black Hills Power, Inc. for an Order Authorizing it to Enter into Loan Agreements to Assume Liability of the Payment of Pollution Control Revenue Refunding Bonds Issued by Pennington County, South Dakota, Weston County, Wyoming and Campbell County, Wyoming.

In 1977 and 1984, the South Dakota Public Utilities Commission approved applications by Black Hills Power, Inc. (BHP) allowing assumption of the obligation to pay principal, interest and premium due on bonds issued by Pennington County, South Dakota, Weston and Campbell Counties in Wyoming and the City of Gillette. The bond proceeds were used to pay for pollution control equipment on generating units located within the area of the issuer's jurisdiction. The initial bonds were subsequently refunded by BHP and new bonds were issued. In 1992, the Commission approved BHP's assumption of obligation under the new bonds. BHP now requests to refund the new bonds by entering into loan agreements to assume the liability for bonds to be issued by the above Counties which will be used to refund the bonds which were the subject of the Commission's 1992 Orders.

Staff Analyst: Dave Jacobson
Staff Attorney: Karen Cremer
Date Filed: 09/13/04
Intervention Deadline: 10/01/04

TELECOMMUNICATIONS

TC04-197 In the Matter of the Request of Midcontinent Communications for Certification Regarding its Use of Federal Universal Service Support.

On September 15, 2004, Midcontinent Communications provided information constituting Midcontinent Communications' plan for the use of its federal universal service support and to otherwise verify that Midcontinent Communications 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: 09/15/04
Intervention Deadline: 09/24/04

**TC04-198 In the Matter of the Request of Farmers Mutual Telephone Company for
Certification Regarding its Use of Federal Universal Service Support.**

On September 16, 2004, Farmers Mutual Telephone Company (Farmers) provided information constituting Farmers' plan for the use of its federal universal service support and to otherwise verify that Farmers 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: 09/16/04
Intervention Deadline: 09/24/04

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

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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(605) 773-3809 fax

Transportation/Warehouse
(605) 773-5280
(605) 773-3225 fax

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.

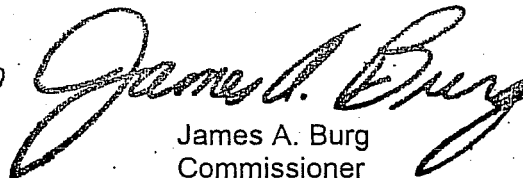
Sincerely,



Robert K. Sahr
Chairman



Gary Hanson
Commissioner



James A. Burg
Commissioner

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

IN THE MATTER OF THE REQUEST OF)	ORDER GRANTING
FARMERS MUTUAL TELEPHONE COMPANY)	CERTIFICATION
FOR CERTIFICATION REGARDING ITS USE)	
OF FEDERAL UNIVERSAL SERVICE)	TC04-198
SUPPORT)	

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

The certification required for rural carriers to receive federal universal support for all four quarters during calendar year 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 16, 2004, the South Dakota Public Utilities Commission (Commission) received a filing from Farmers Mutual Telephone Company (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

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

for the use of its federal universal service support and to otherwise verify that Company will use all federal universal service support received in a manner that is consistent with the federal universal service provisions of 47 U.S.C. § 254. 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 17, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of September 24, 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.

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>Melanie Kelbo</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