

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED

MAR 02 2005

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE PROCEEDS)
FROM BONDS AND OTHER SECURITY)
FOR THE BENEFIT OF CUSTOMERS OF)
S&S COMMUNICATIONS)
)

PETITION

TC05-047

This petition (Petition) is filed by the staff (Staff) of the South Dakota Public Utilities Commission (Commission) in order to open a docket for the purpose of administering, adjudicating and distributing to claimants the proceeds of bonds and other security that the Commission has received or may receive in the future for the benefit of the customers of S&S Communications (Proceeds). In support of this Petition and the relief requested by Staff herein, the Staff states as follows:

1. On December 21, 2000 in Docket No. TC00-114, the Commission issued an order granting a certificate of authority to S&S Communications Inc (COA Order). The COA Order required S&S to maintain continuous bond coverage for all pre-paid amounts not covered by a non-recourse "collateral" agreement provided by Aberdeen Finance Corporation (AFC) covering loans AFC made to customers to pay for their pre-paid service.

2. Pursuant to this condition, the Commission received the following bonds and other security for the benefit of the customers of S&S:

<u>Issued</u>	<u>Company</u>	<u>Amount</u>	<u>Term</u>	<u>Proceeds</u>
9/8/2000	Allied Insurance	\$50,000	9/6/00 - 6/25/01	\$ 0
6/21/01	Allied Insurance	\$75,000	6/20/01 -10/30/01	\$ 0
11/13/01	Star Insurance	\$75,000	10/30/01 - present	\$75,000
10/30/02	Underwriters	\$75,000	10/30/02 - present	\$75,000
9/12/02	Aberdeen Finance	\$125,000	9/12/02 - 9/12/04	\$ 0

3. Staff is attempting to obtain collection on the two Allied bonds totalling \$125,000. Aberdeen Finance Company is currently in Chapter 11 bankruptcy and Staff has filed a claim for the \$125,000 letter of credit issued to the Commission by AFC.

4. S&S ceased providing wireline telecommunications service on June 3, 2003. Based upon the information available to Staff at this time, when S&S ceased service, there were an estimated 633 S&S customers in South Dakota who had pre-paid for approximately \$2.3 Million in telecommunications services that S&S had not yet provided under prepaid service contracts.

5. To date, the Commission has pending 145 formal complaint proceedings initiated by customers of S&S. The Commission has received bond claim forms from 65 of the 145 complainants and an additional 13 bond claim forms from customers who did not file formal complaints. In addition, the Commission received informal telephonic contacts from 183 customers who have not filed informal complaints.

6. Staff has sent a mailing to all customers who contacted the Commission in regards to S&S, except for three for whom the Commission had no contact information. Included in this mailing was an explanation of the customer's right to file a complaint and a claim on the Proceeds. At this time, no notice has been either published or mailed to customers who did not contact the Commission.

7. The Staff has filed this Petition to open a docket in which the Commission can administer and adjudicate customer claims against the Proceeds and distribute Proceeds following the determination of claimants' entitlements thereto. Staff first recommends that the Commission establish procedures for providing notice to potential claimants and for administration of the claims process. Staff believes that a Commission-ordered process is necessary to ensure fairness and finality. After expiration of any claim filing deadline and receipt and compilation of the data necessary for

decision-making on the claims, Staff will present one or more proposals to the Commission for determining claimants' entitlements to Proceeds and the data supporting Staff's recommendations. From time to time, Staff may also come before the Commission on motion to request additional procedural or substantive decisions.

WHEREFORE, Staff requests that the Commission:

1. Issue one or more preliminary orders to:
 - a. Establish a procedure for providing notice to claimants and potential claimants of the opening of this docket and their rights and responsibilities in regard to filing claims against Proceeds.
 - b. Establish a cut-off date by which all potential claimants to the Proceeds shall have filed their claims or be foreclosed from so filing.
 - c. Determine that formal docketed complaints filed with the Commission by customers against S&S also constitute claims against the Proceeds.
 - d. Ordering such other preliminary relief that Staff shall request in the proceeding by appropriate motion.
2. Issue a final decision and order:
 - a. Determining the dollar amount of each claimant's potential entitlement to Proceeds and the fractional share of Proceeds to which each claimant is entitled.
 - b. Applying the claimants' fractional shares to the amount of Proceeds then in the custody of the Commission.
 - c. Providing that any Proceeds received by a claimant shall constitute a satisfaction, to the extent of such amount, of any damages order or judgment issued by the Commission or a Court against S&S arising out of the subject matter for which the Proceeds

were received.

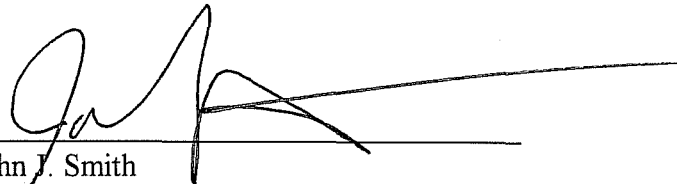
d. Authorizing and directing the Executive Director to take necessary action to distribute Proceeds then in the custody of the Commission.

e. Directing Staff to file motions to authorize additional distributions of Proceeds as they are received.

3. Ordering such other and further relief as the Commission shall deem just and proper.

Dated this 2nd day of March, 2005.

Respectfully submitted by



John J. Smith
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501
ph. (605) 773-3201
fax (605) 773-3809
john.j.smith@state.sd.us

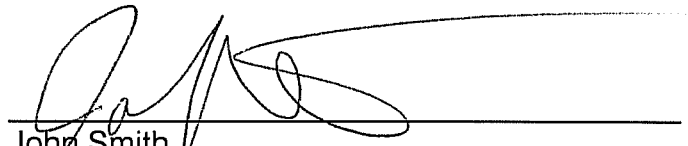
Attorney for Commission Staff

CERTIFICATE OF SERVICE

I hereby certify that copies of Petition were served on the following by mailing the same to them by United States Post Office First Class Mail, postage thereon prepaid, at the addresses shown below on this the 2nd day of March, 2005.

Mr. John W. Burke
Attorney at Law
Barker, Wilson, Reynolds & Burke
P.O. Box 100
Belle Fourche, SD 57717-0100

Mr. Thomas L. Sannes
Attorney at Law
P. O. Box 615
Webster, SD 57274



John Smith
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501