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TC05-145

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August 5, 2005

RECEIVED

AUG 05 2005

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

OF COUNSEL:

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Pamela Bonrud, Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501


Re: West River Telecommunications Cooperative
Request for USF Certification

Dear Pam,

Enclosed herein please find original and three (3) copies of the Request of West River Telecommunications Cooperative for USF Certification.

Sincerely yours,

RITER, ROGERS, WATTIER & BROWN, LLP

By: 
Darla Pollman Rogers

DPR/rar
Enclosures
cc: Bonnie Krause

AUG 05 2005

BEFORE THE
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE REQUEST OF WEST RIVER TELECOMMUNICATIONS COOPERATIVE FOR CERTIFICATION REGARDING ITS USE OF FEDERAL UNIVERSAL SERVICE SUPPORT

DOCKET NO. SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

REQUEST FOR CERTIFICATION

West River Telecommunications Cooperative (the "Company" refers to Total 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, the 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, 54.305, and/or 54.307, and/or 47 C.F.R. Part 36, Subpart F (high-cost loop support, local

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.

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 2006 is currently due to be filed with the FCC and USAC on or before October 1, 2005. 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. The 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 16,555 access lines within its established rural service area in South Dakota. The Company serves approximately 949 access lines (approximately 5.7% of the total lines) in South Dakota.

4. As the Company serves a single study area that encompasses two states, and as the support received in the form of Federal Universal Service support is developed and applied on a study area wide basis – not a state by state basis, West River is providing company wide information as identified below. West River does not maintain records sufficient to identify the investment and USF support differentiated between North and South Dakota.

5. This Commission has limited regulatory oversight over the 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

6. The purpose of this filing is to provide information indicating the Company’s use of federal universal service support and to otherwise verify that the 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.

7. 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 Fourteenth Report and Order, ¶ 188.

- (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. . . .

8. 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

9. 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.

10. The Company as a designated eligible telecommunications carrier has received federal universal service support in the past and expects to receive support during calendar year 2006. As of this time, specific support amounts the Company should receive in 2006 have not

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.

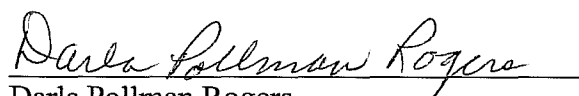
yet been identified by USAC. Included in Exhibit A attached hereto, however, are estimated universal service support amounts for such period.

11. The Company also provides in Exhibit A, attached hereto, estimates of the expenditures that will be incurred in year 2006 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 2006 to offset a portion of 2006 expenditures incurred within the accounts referenced in Exhibit A. This use of federal universal service support will enable the 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.

12. Based on the foregoing information, the attached Exhibit A and Exhibit B, Affidavit of Bonnie Krause, COO/Financial Manager, the Company requests that this Commission issue an appropriate certification to the FCC and USAC indicating that West River Telecommunications Cooperative (the Total 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 2006. In order to ensure that this certification is issued to the FCC prior to October 1, 2005, the Company would further ask the Commission to expedite the process that is initiated based on this filing.

Dated this 5th day of August, 2005.

Respectfully submitted,



Darla Pollman Rogers

Riter, Rogers, Wattier & Brown, LLP

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Attorney for West River Telecommunications
Cooperative

Exhibit A
West River Telecommunications Cooperative (Total Company)

Estimated Year 2006 Federal Universal Service Receipts

High cost loop support	\$3,377,645.
Local switching support	\$ 465,303
Safety Net Additive support	\$ -0-
Safety Valve Loop Cost Adjustment	<u>\$ -0-</u>
TOTAL	\$3,842,948

Estimated Year 2006 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)	\$ 3,000.
General support (Accts. 6120-24)	\$ 458,000.
Central office (Accts. 6210-6232)	\$1,127,000.
Cable and wire facilities (Accts. 6410-6441)	\$1,110,000.
Network operations (Accts. 6530-35)	\$ 339,000.
Depreciation and amortization (Accts. 6560-65)	<u>\$3,377,000.</u>
	\$6,414,000.

Customer operations expenses

Customer services (Accts. 6620-23)	\$1,010,000.
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Corporate operations expenses

Executive and planning (Accts. 6710-6712)	\$ 333,000.
General and administrative (Accts. 6720-28)	\$1,260,000.

Estimated Total Recurring Year 2006

Supported Expenses, from above,

Before Return On Investment **\$9,017,000.**

Estimated Additions

Switching (Acct. 2210)	\$ 686,000.
Cable and wire (Acct. 2410)	<u>\$1,700,000</u>
TOTAL	\$2,386,000

Estimated Total Year 2006 Supported

Expenditures, Before Return On Investment **\$11,403,000.**

Exhibit B

AFFIDAVIT

As an authorized representative of West River Telecommunications Cooperative (Total Company), I, Bonnie Krause, COO/Financial 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 West River Telecommunications Cooperative (Total 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).

Bonnie Krause
Bonnie Krause, COO/Financial Manager

Subscribed and Sworn to before me this 4th day of August 2005.

Jane Schramm
NOTARY PUBLIC

My Commission expires: 9/6/06

