

**MILLER  
ISAR** INC.  
REGULATORY CONSULTANTS

ANDREW O. ISAR

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Via Electronic Delivery

September 7, 2007

Ms. Pam Bonrud  
Executive Secretary  
South Dakota Public Utilities Commission  
State Capitol Building, 1st Floor  
500 East Capitol Avenue  
Pierre, South Dakota 57501

RE: Silv Communication Inc. Application for a Certificate of Authority

Dear Ms. Bonrud:

Enclosed for filing with the South Dakota Public Utilities Commission ("Commission"), is Silv Communication Inc.'s ("Silv") *Application for Certificate of Authority to Provide Non-Facilities-Based Interexchange Telecommunications Services Throughout the State of South Dakota* ("Application") and proposed tariff. A \$250.00 Commission filing fee has contemporaneously been forwarded with a copy of this Transmittal letter, via overnight delivery

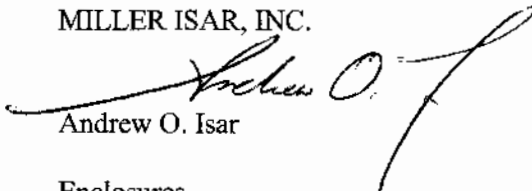
Exhibit C to the Application contains a copy of proprietary financial statements and cash flow projection, as required by Commission rules. The Company requests that the Commission treat Exhibit C as confidential information, to be reviewed by Commission staff only in the performance of their governmental duties, and not released to the public. Documents in Exhibit C are stamped "Confidential," accordingly.

Please acknowledge receipt of this filing by electronic mail and by file-stamping and returning the hard copy of this transmittal letter in the self-addressed, postage-paid envelope provided for this purpose.

Thank you for your attention to this matter. Questions regarding this filing may be directed to the undersigned.

Sincerely,

MILLER ISAR, INC.

  
Andrew O. Isar

Enclosures

Regulatory Consultants to  
Silv Communication Inc.

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

In the Matter of the Application )  
of Silv Communication Inc )  
for a Certificate of Authority to Provide ) Docket No. \_\_\_\_\_  
Non-Facilities-Based Interexchange )  
Telecommunications Services )  
Throughout the State of South Dakota. )

APPLICATION

Silv Communication Inc, (“Applicant”), by its undersigned regulatory consultants, and pursuant to SDCL 49-31-3 and ARSD §20:10:42:02, hereby applies to the South Dakota Public Utilities Commission (“Commission”) for a Certificate of Authority to provide non-facilities-based, resold local exchange access service throughout the State of South Dakota. In support of its Application, Applicant states as follows:

(1) IDENTIFICATION OF APPLICANT

**Applicant's name, address, telephone number facsimile number, E-mail and web site address are (ARSD §20:10:42:02(1)):**

Silv Communication Inc.  
3460 Wilshire Boulevard, Suite 1103  
Los Angeles, California 90010  
Telephone: 213.381.7999  
Facsimile: 213.381.7711  
Toll Free: 888.723.2199  
Email: [silvcomm@yahoo.com](mailto:silvcomm@yahoo.com)  
Web Site: [www.silvcom.net](http://www.silvcom.net)

**The name under which the applicant will provide these services if different than in subdivision (1) of this section (ARSD §20:10:42:02(2)):**

Applicant will provide services under its own name, Silv Communication Inc., in the State of South Dakota.

(2) CORPORATE AND OWNERSHIP INFORMATION

**If the applicant is a corporation: (ARSD §20:10:42:02(3)):**

**(a) The state in which it is incorporated, the date of incorporation, and a copy of its certificate of incorporation or, if it is an out-of-state corporation, a copy of its certificate of authority to transact business in South Dakota from the Secretary of State;**

Applicant is a privately-held corporation organized under the laws of the State of California on June 4, 2001. A copy of Applicant's Articles of Incorporation is attached hereto at **Exhibit A**. A copy of Applicant's Certificate of authority to transact business in South Dakota from the Secretary of State is attached hereto at **Exhibit B**.

**(b) The location of its principal office, if any, in this state and the name and address of its current registered agent; and**

Applicant's will not maintain a physical office in the State of South Dakota. Applicant's current registered agent in the State of South Dakota is:

National Registered Agents, Inc.  
300 South Phillips Avenue,  
Suite 300  
Sioux Falls, SD 57104-6322

**(c) The name and address of each corporation, association, partnership, cooperative, or individual holding a 20 percent or greater ownership or management interest in the applicant corporation and the amount and character of the ownership or management interest;**

Applicant's corporate officers holding a 20 percent or greater ownership or management interest in the applicant corporation are as follows:

Golam Ahia/ President, maintains 75% ownership stake in Applicant  
Aminura Rahman/Vice President, maintains 25% ownership stake in Applicant  
3460 Wilshire Boulevard, Suite 1103  
Los Angeles, California 90010  
Telephone: 213.381.7999

Applicant does not have an ownership or other interest in any other entity, nor does any other

entity maintain any ownership interest in Applicant.

(3) APPLICANT'S PROPOSED TELECOMMUNICATIONS SERVICE

**A description of the telecommunications services the applicant intends to offer (ARSD §20:10:42:02(5)); A detailed statement of the means by which the applicant will provide its services (ARSD §20:10:42:02(6)):**

Applicant proposes to provide resold non-facilities-based, switched access, outbound interexchange telecommunications services for the direct transmission and reception of voice and data between locations throughout the State of South Dakota. Applicant's network services are provided by Applicant's underlying carrier.

(4) GEOGRAPHIC AREAS OF SERVICE

**The geographic areas in which the services will be offered or a map describing the service area (ARSD §20:10:42:02(7)):**

Applicant proposes to make its services available throughout the State of South Dakota.

(5) FINANCIAL INFORMATION

**Current financial statements of the applicant including a balance sheet, income statement, and cash flow statement; a copy of the applicant's latest annual report; a copy of the applicant's report to stockholders; and a copy of applicant's tariff with the terms and conditions of service (ARSD §20:10:42:02(8)):**

Applicant's financial statements for the most recent calendar year are attached hereto at **Exhibit C**. Applicant also provides a projected cash flow statement included at **Exhibit C**. Applicant respectfully requests confidential treatment of its financial information and has filed this information under seal, accordingly. Applicant does not prepare an annual report nor report to stockholders.

(6) CONTACT, BILLING, AND CUSTOMER SERVICE INFORMATION

**The names, addresses, telephone number, fax number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters and a description of how the applicant handles customer billings and customer service matters (ARSD §20:10:42:02(9)):**

The name, address, telephone number, fax number, E-mail address, and toll free number of the applicant's representatives to whom all inquiries must be made regarding complaints and regulatory matters is:

Complaints to Ms. Beatriz Chaidez  
Regulatory matters to Mr. Ken Adams

Silv Communication Inc.  
3460 Wilshire Boulevard, Suite 1103  
Los Angeles, California 90010  
Telephone: 213.381.7999  
Facsimile: 213.381.7711  
Toll Free: 888.723.2199  
Email: [silvcomm@yahoo.com](mailto:silvcomm@yahoo.com)

Applicant bills customers monthly through incumbent local exchange carrier billing in accordance with established Company rates.

Applicant maintains in-house customer service representatives, overseen by a Customer Service Manager. Customer service representatives are available from 9:00 a.m. to 5:00 p.m. Pacific Time to respond to billing, service, and repair complaints. Messages may be left for Customer services from 5:01 p.m. to 8:59 a.m. Pacific Time, which will be responded to on the next business day.

The customer's first point of contact for billing or service complaints is Applicant's Customer Service Department's trained representatives. If, after contacting Applicant's customer service representative, the customer remains dissatisfied, the customer may be connected with Applicant's Customer Service Manager. Customers will be advised that they may contact the

Commission at any time for assistance in the resolution of any issue concerning the Applicant's telecommunications service.

In instances of service affecting issues or outages, Applicant will contact the designated service representative of the underlying carrier providing the network services to report the trouble and ascertain the estimated time of repair. The underlying carrier will take corrective procedures and will report the resolution of the trouble to Applicant. The company will then immediately contact the customer and will verify with the customer that service has been restored.

Applicant does not collect deposits, advanced payments, or prepayment of recurring fees. Further, Applicant does not provide prepaid services. All charges and recurring fees are billed in arrears.

(7) OTHER STATE AUTHORITY

**A list of the states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency in the states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable (ARSD §20:10:42:02(10)):**

Applicant has applied for and has been granted authority to provide resold interexchange service in the following states: Arkansas, California, Colorado, Florida, Georgia, Idaho, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Montana, New Mexico, Nevada, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Texas, Utah, and Wisconsin. Applicant has never been denied registration or certification in any state. Applicant remains in good standing with all regulatory agencies in the states where it is registered or certified.

(8) MARKETING

**A description of how the applicant intends to market its services, its target market, whether the applicant engages in any multilevel marketing, and copies of any company brochures used to assist in the sale of services (ARSD §20:10:42:02(11)):**

Applicant markets its services through a contracted telemarketing firm. It does not use any brochures to assist in the sale of services. Consumers may obtain additional information through Applicant's web site, [www.silvcom.net](http://www.silvcom.net). Applicant does not engage in multilevel marketing

(9) COST SUPPORT

**Cost support for rates shown in the company's tariff for all noncompetitive or emerging competitive services (ARSD §20:10:42:02(12)):**

Applicant maintains that its interexchange services are competitive. Nevertheless, Applicant's costs are a direct function of its underlying carrier's network service costs, payroll, paid commissions, and other operational costs, balanced with maintaining a competitive rates.

(10) ADDITIONAL INFORMATION IN SUPPORT OF APPLICATION

**Federal tax identification number (ARSD §20:10:42:02(13)):**

Applicant's Federal Employer Identification Number is 95-4865712. Applicant has registered with the South Dakota Department of Revenue; Sales Tax number 73-001-954865712E-ST-001.

**The number and nature of complaints filed against the applicant with any state or federal regulatory commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered (ARSD §20:10:42:02(14)):**

Administrative action was taken against the Applicant in 2006 by state regulators in connection with the provision of telephone services or telecommunications services. A detailed

discussion is attached hereto at **Exhibit D**. All such complaints have been resolved to the satisfaction of regulators and affected individuals. No further regulatory action has been taken. Applicant maintains strict compliance with federal unauthorized account transfer regulations, 47 C.F.R. §64.1100 *et seq.*

**A written request for waiver of those rules the applicant believes to be inapplicable; and (ARSD §20:10:42:02(15)):**

Applicant requests that the bonding requirement as set forth in ARSD 20:10:24:04.05 be waived. Applicant does not now, nor will it in the future, collect deposits, advanced payments, or prepayment of recurring fees, nor does Applicant does not provide prepaid services as noted in paragraph 6, *supra*. Applicant further requests that any rule that has been deemed inapplicable to competitive interexchange carriers and waived for other interexchange carrier applicants, be waived for Applicant.

**Other information requested by the commission needed to demonstrate that the applicant has sufficient technical, financial, and managerial capabilities to provide the interexchange services it intends to offer consistent with the requirements of this chapter and other applicable rules and laws (ARSD §20:10:42:02(16)):**

Applicant submits the following reasons in support of its belief that the public interest will be served by the approval of this Application:

(1) While providing its customers with cost advantages realized by Applicant's service, Applicant's service will necessarily utilize existing carrier communications facilities more efficiently through increased usage and provide greater revenues for local exchange carriers by way of additional exchange access through other carriers.

(2) Commission approval of this Application will bring the following long-term benefits to the public:

(a) greater value to customers through lower priced, better quality network services;



- (b) innovative network services and routing;
- (c) increased carrier choice in exchange access services utilizing advanced technology;
- (d) efficient use of existing telecommunications resources as well as increased diversification and reliability in South Dakota networks; and
- (e) an additional tax revenue source for the State of South Dakota.

(11) APPLICANT'S APPLICATION CONTACT INFORMATION

Correspondence and communications regarding this Application may be directed to:

Andrew O. Isar  
Miller Isar, Inc.  
7901 Skansie Avenue, Suite 240  
Gig Harbor, Washington 98335  
Telephone: 253.851.6700  
Facsimile: 253.851.6474  
E-Mail: [aisar@millerisar.com](mailto:aisar@millerisar.com)

Wherefore, Silv Communication Inc. respectfully requests that the Commission issue an

order granting Silv Communication Inc. authority to provide non-facilities-based resold interexchange services throughout the State of South Dakota.

Respectfully submitted, this 12<sup>th</sup> day of June, 2007.

SILV COMMUNICATION, INC.

By:



SK Golam Ahia-President  
3460 Wilshire Boulevard, Suite 1103  
Los Angeles, CA 90010  
Telephone: 213.381.7999

Andrew O. Isar  
Miller Isar, Inc.  
7901 Skansie Avenue, Suite 240  
Gig Harbor, WA 98335  
Telephone: 253.851.6700  
Facsimile: 253.851.6474  
E-Mail: [aisar@millerisar.com](mailto:aisar@millerisar.com)

Regulatory Consultants for  
Silv Communication Inc.

VERIFICATION OF APPLICANT

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF LOS ANGELES )

I, SK Golam Ahia, being first duly sworn and deposed, state that I am President of Silv Communication Inc. and am authorized to make this Verification on its behalf.

The statements in the foregoing Application are true of my own knowledge, except as to matters which are stated on information on belief, and as to those matters I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 12<sup>th</sup> June, 2007 at Los Angeles, CA

SILV COMMUNICATION, INC.

By: SK Golam Ahia

SK Golam Ahia-President  
3460 Wilshire Boulevard, Suite 1103  
Los Angeles, CA 90010  
Telephone: 213.381.7999

Subscribed and sworn to before me this 12<sup>th</sup> day of June, 2007.

Samantha Kang  
Notary Public in and for the State  
of California, residing at:  
Los Angeles



BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

In the Matter of the Application                    )  
of Silv Communication Inc                        )  
for a Certificate of Authority to Provide        )     Docket No. \_\_\_\_\_  
Non-Facilities-Based Interexchange            )  
Telecommunications Services                    )  
Throughout the State of South Dakota.        )

LIST OF EXHIBITS

EXHIBIT A	ARTICLES OF INCORPORATION
EXHIBIT B	SOUTH DAKOTA CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS
EXHIBIT C	CONFIDENTIAL FINANCIAL STATEMENTS
EXHIBIT D	ADMINISTRATIVE ACTION

**EXHIBIT A**

ARTICLES OF INCORPORATION  
(Attached)

# State of California

## SECRETARY OF STATE CERTIFICATE OF STATUS DOMESTIC CORPORATION

I, BILL JONES, Secretary of State of the State of California, hereby certify:

That on the 4th day of June, 2001, SILV COMMUNICATION INC. became incorporated under the laws of the State of California by filing its Articles of Incorporation in this office; and

That no record exists in this office of a certificate of dissolution of said corporation nor of a court order declaring dissolution thereof, nor of a merger or consolidation which terminated its existence; and

That said corporation's corporate powers, rights and privileges are not suspended on the records of this office; and

That according to the records of this office, the said corporation is authorized to exercise all its corporate powers, rights and privileges and is in good legal standing in the State of California; and

That no information is available in this office on the financial condition, business activity or practices of this corporation.

IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of March 1, 2002.

  
BILL JONES  
Secretary of State

no

# State of California

SECRETARY OF STATE



*BILL JONES*, Secretary of State of the State of California,  
hereby certifies:

That the attached transcript of \_\_\_\_\_ page(s) was  
received by and in this office from the record on file, of  
\_\_\_\_\_ reports to be a copy and that it is full, true  
and correct.

*IN WITNESS WHEREOF*, I execute this  
certificate and affix the Great Seal of  
the State of California this day of \_\_\_\_\_

MAR 1 2002

*Bill Jones*



2313517

**FILED**  
In the Office of the Secretary of State  
of the State of California

JUN 4 2003

ARTICLES OF INCORPORATION

*Bill Jones*  
BILL JONES, Secretary of State

I

The name of this corporation is Silv communication Inc.

II

The purpose of the corporation is to engage in any lawful act or activity for which a corporation may be organized under the GENERAL CORPORATION LAW of California other than the banking business, the trust company business or the practice of a profession permitted to be incorporated by the California Corporations code.

III

The name and address in the State of California of this corporation's initial agent for service of process is:

Name MD Aminur Rahman

Address 3440 Wilshire Blvd., Suite # 807

City LOS ANGELES

State CALIFORNIA Zip 90010

IV

This corporation is authorized to issue only one class of shares of stock and the total number of shares which this corporation is authorized to issue is 100,000.



*Aminur Rahman MD*  
MD Aminur Rahman

(Type Name of Incorporator), Incorporator



**EXHIBIT B**

**SOUTH DAKOTA CERTIFICATE OF AUTHORITY TO TRANSACT BUSINESS**  
(Attached)

# State of South Dakota



## OFFICE OF THE SECRETARY OF STATE

### Certificate of Authority

ORGANIZATIONAL ID #: FB031543

I, **Chris Nelson**, Secretary of State of the State of South Dakota, hereby certify that the Application for a Certificate of Authority of **SILV COMMUNICATION INC. (CA)** to transact business in this state duly signed and verified pursuant to the provisions of the South Dakota Corporation Acts, have been received in this office and are found to conform to law.

**ACCORDINGLY** and by virtue of the authority vested in me by law, I hereby issue this Certificate of Authority and attach hereto a duplicate of the application to transact business in this state.

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the Great Seal of the State of South Dakota, at Pierre, the Capital, this April 5, 2007.



*Chris Nelson*

**Chris Nelson**  
Secretary of State



Secretary of State, Corporations Division  
 500 E. Capitol Avenue, Pierre SD 57501  
 Phone 605-773-4845, Fax 605-773-4550

RECEIVED

APR 05 2007

S.D. SEC. OF STATE

Filed this 5th day of April 2007  
 FILING FEE \$550

Application for Certificate of Authority

FILING INSTRUCTIONS: A foreign corporation may apply for a certificate of authority to transact business in South Dakota by delivering to the Office of the Secretary of State for filing. One ORIGINAL and One COPY of the application must be submitted. This application must include a CERTIFICATE OF EXISTENCE, or a document of similar import, duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated.

(1) The name of the corporation is (exact corporate name including corporation, company, incorporated, limited or an abbreviation of one of such words)  
 Silv Communication Inc.

(2) State where incorporated California (3) The date of its incorporation is 08/04/2001  
 and the period of its duration is perpetual

(4) The address of its principal office in the state or country under the laws of which it is incorporated is  
3480 Wilshire Blvd., Suite 1103, Los Angeles, CA Zip Code 90010

mailing address if different from above is:  
 Zip Code

(5) The street address, or a statement that there is no street address, of its registered office in the State of South Dakota is  
300 South Phillips Avenue, Suite 300, Sioux Falls, SD Zip Code 57104-6322

and the name of its registered agent in the State of South Dakota at that address is National Registered Agents, Inc.

(6) The names and usual business addresses of its current directors and officers are:

Name	Officer Title	Street Address	City	State	Zip
SK Golam Ahia	President/Director	307 S. Reno St.	Los Angeles,	CA	90057
MD Aminur Rahman	Vice President/Dir.	535 S. Kenmore,	Los Angeles,	CA	90020
Elena Zepeda	Secretary	3480 Wilshire Blvd, Suite 1103,	Los Angeles, CA		90010

The application must be signed by an authorized officer of the corporation.

Date: 3-20-07

SK Golam Ahia  
 Signature

SK Golam Ahia  
 Printed Name

President  
 Title

\*\*\*\*\*

The Consent of Appointment below must be signed by the registered agent listed in number five.

**Consent of Appointment by the Registered Agent**

I, National Registered Agents, Inc., hereby give my consent to serve as the registered agent for Silv Communication Inc.

(name of registered agent)  
(corporate name)

Dated March 30, 2007

Cheryl Conkild  
(signature of registered agent)

## EXHIBIT C

### CONFIDENTIAL FINANCIAL STATEMENTS

(Attached)

**PLEASE TAKE NOTICE:** Applicant considers its financial statements and cash flow projections to be proprietary and confidential, pursuant to ARSD 20:10:01:41, Requests for confidential treatment of information, as set forth below:

(1) An identification of the document and the general subject matter of the materials or the portions of the document for which confidentiality is being requested;

Income statement, balance sheet, and cash flow projections.

(2) The length of time for which confidentiality is being requested and a request for handling at the end of that time. This does not preclude a later request to extend the period of confidential treatment;

Applicant requests that confidentiality be maintained for a period of one year, after which the documents may be destroyed.

(3) The name, address, and phone number of a person to be contacted regarding the confidentiality request;

Andrew O. Isar  
Miller Isar, Inc.  
7901 Skansie Avenue, Suite 240  
Gig Harbor, Washington 98335  
Telephone: 253.851.6700  
Facsimile: 253.851.6474  
E-Mail: [aisar@millerisar.com](mailto:aisar@millerisar.com)

(4) The statutory or common law grounds and any administrative rules under which confidentiality is requested. Failure to include all possible grounds for confidential treatment does not preclude the party from raising additional grounds in the future; and

ARSD 20:10:01:39(4) Trade secrets or other confidential research, development, or commercial information recognized and protected by SDCL 15-6-26(c)(7) or other law.

(5) The factual basis that qualifies the information for confidentiality under the authority cited.

The data contained in confidential documents reveal the size, nature, and scope of Applicant's business and financial operations to competitors and potential competitors and constitute "Trade Secrets, as defined. Therefore, the Applicant requests that the Commission treat Applicant's Balance Sheet and Income Statement as proprietary, to maintain the confidentiality of the data contained therein. Applicant's financial statements are submitted under protective seal, accordingly.

## EXHIBIT D

### ADMINISTRATIVE ACTION

Applicant has been subject to two regulatory actions in Michigan and a related matter in Iowa associated with the unauthorized transfer of customer accounts or “slamming.”<sup>1</sup>

Applicant does not engaging in, nor in any way condones, the practice of “slamming.” Applicant complies with federal slamming regulations in 47 C.F.R. §1100 *et. seq.*, Changes in Preferred Telecommunications Service Providers, and applicable state law and regulation. Applicant has adopted procedures to guard against the unauthorized transfer of accounts that include requiring subscribers to sign verifiable letters of agency. The Company also utilizes independent third party verification to supplement the subscriber account verification process, and will only engage ethical sales and marketing agents whose procedures for new customer subscriptions comply with federal and state slamming regulations. Further, all agent contact with prospective subscribers must conform to standard company scripts that are consistent with federal slamming regulation.

Since Applicant’s incorporation in 2001, the Company has been the subject of three slamming actions; two in Michigan, and one in Iowa, as discussed below. These actions have resulted from the improper and regrettable misjudgment of a sales agency engaged by Applicant to obtain subscribers, and on whom Applicant relied upon as to the validity of new customer account authorizations. Applicant has since terminated its relationship with this agency. Penalties imposed by the Michigan Public Service Commission are under appeal. The matter in Iowa has been settled.

**Michigan.** On December 20, 2005 the Michigan Public Service Commission issued an Order finding that Applicant had transferred Absolute Music, LLC to Applicant’s intraLATA and interLATA interexchange service without subscriber authorization.<sup>2</sup> On January 31, 2006, a second Order was issued by the Michigan Public Service Commission, finding that Applicant had transferred Home Instead Senior Care to Applicant’s intraLATA and interLATA interexchange service without subscriber authorization.<sup>3</sup> Both incidents stemmed from complaints filed by the respective complainants in mid-2005 following the actions of a marketing/sales agency formerly engaged by Applicant.

In both cases, the Michigan Commission found that Applicant had violated section 505 of the Michigan Telecommunications Act, MCL 484.2505, and Michigan Commission Order in Case U-11900. The unauthorized transfer of the subscribers’ intraLATA and interLATA services were deemed to constitute separate violations, each subject to financial penalties established under Michigan law, as imposed by the Michigan Public Service Commission Orders.

Applicant immediately and without hesitation, assumed full responsibility for the actions of the agency it had engaged. Applicant sought to refund the entire amounts collected from the

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<sup>1</sup> No penalties associated with the unauthorized practice of “cramming” have been - nor would be - incurred as Applicant does not engage in third-party billing.

<sup>2</sup> *In the Matter of the Complaint of Absolute Music, LLC against Silv Communications, Inc.*, Michigan Public Service Commission, Case No. U-14567, Order (December 20, 2005).

<sup>3</sup> *In the Matter of the Complaint of Home Instead Senior Care against Silv Communications, Inc.*, Michigan Public Service Commission, Case No. U-14584, Order (January 31, 2006).

entities, pursuant to state and federal regulations, and to settle both complaints. Applicant was, however, precluded from timely engaging in-state counsel and preparing for a Michigan Commission hearing due to delays in receipt of communications from the Michigan Commission, preventing an adequate defense and timely resolution of the complaints. Applicant has maintained that Michigan Commission action violated the Company's due process and has appealed the penalties before the Michigan Court of Appeals. These appeals are currently pending.

**Iowa.** On November 30, 2005, Applicant entered into a settlement agreement with the Iowa Office of Consumer Advocate ("OCA"), a division of the Iowa Department of Justice, resolving a complaint filed by the OCA over the unauthorized transfer of a an individual's account by Applicant.<sup>4</sup> OCA alleged that Applicant had violated Iowa Code §476.103. Again, Applicant assumed full and immediate responsibility for the situation. The settlement agreement resulted in Applicant's payment of a civil monetary penalty of \$500.00, pursuant to Iowa Code. The Company further credited all amounts collected from the customer. Notably, the OCA acknowledged that Applicant had taken steps to "avoid occurrences of slamming" and to continue such efforts in the future.

Applicant maintains that its change of marketing/sales agency and continued compliance with established new account verification procedures will ensure that Applicant transfer accounts exclusively from those new subscribers who affirmatively subscribe to Applicant's services.

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<sup>4</sup> See, *Office of Consumer Advocate v. Silv Communication Inc.*, Iowa Utilities Board, Docket No. FCU-05-62 (C-05-150), Settlement Agreement and Joint Motion for Approval of Settlement Agreement (November 30, 2005). Granted by the Iowa Utilities Board on January 16, 2006.