

TO: COMMISSIONERS AND ADVISORS
FROM: DARREN KEARNEY AND KRISTEN EDWARDS
SUBJECT: TC13-034 CONSOLIDATED TELECOM, INC. CERTIFICATE OF AUTHORITY
FOR ALTERNATIVE OPERATOR SERVICE
DATE: JUNE 10, 2013

STAFF MEMORANDUM

Overview

In accordance with SDCL 49-31-3, Consolidated Telecom, Inc. d/b/a Secured Technologies, Inc. (Consolidated) submitted an application with the Commission for a Certificate of Authority (COA) in order to provide resold alternative operator telecommunications service (AOS) within South Dakota. More specifically, Consolidated intends to offer automated operator assisted calling services to inmates within correctional facilities. South Dakota Public Utilities Commission Staff (Staff) reviewed the application for completeness and believes that Consolidated has submitted the necessary information required by ARSD 20:10:24:05 and ARSD 20:10:24:02. Due to the unique nature of providing AOS to inmates, Consolidated requests the Commission waive ARSD 20:10:24:05 (3), (5), (6), and the first sentence of the last paragraph of ARSD 20:10:24:05. Staff further believes that Consolidated has adequately demonstrated it is financially, technically, and managerially capable of providing AOS in South Dakota. Therefore, Staff recommends that the Commission waive the aforementioned rules and grant Consolidated a Certificate of Authority for Alternative Operator Services.

Company Service Offering

Consolidated intends to offer collect calling services to inmates of confinement institutions throughout the State of South Dakota. Sophisticated equipment will be installed at confinement facilities that will allow for inmates to make outgoing, collect-only calls without the assistance of a live operator. Consolidated will provide an interconnected-VoIP based service, allowing the company to offer a number of value added features that correctional facilities may find attractive. For example, a correctional facility will have access to a facility-specific website that provides correctional officers with the ability to run reports, record inmate calls, manage blocked calls, and shutdown the phone system.

The ultimate consumers of Consolidated's services are inmates and inmate family members. In order to gain access to the consumers, Consolidated enters into contracts

with correctional facilities. As such, Consolidated will market its service offerings to organizations that manage the various correctional facilities within the state. Consumers are subject to the rates and terms of Consolidated’s service as agreed upon in the contract with the correctional facility. Examples of the rates and terms consumers will be subject to are provided in Consolidated’s tariff that was filed with the application; however, Commission approval of the tariff is not warranted pursuant to SDCL 49-31-12.7. Finally, it should be noted that payments for Consolidated’s services will be made by consumers through collect-calls, pre-paid accounts, or calling cards.

Administrative Rule Review and Company Waiver Request for Certain Requirements

Telecommunication companies that intend to provide AOS in South Dakota must submit an application for a certificate of authority to the Commission that adequately addresses the requirements set forth in ARSD 20:10:24:05. Should a company not be able to meet all the requirements in ARSD 20:10:24:05, the company can request the Commission waive certain requirements. Given the unique nature of providing a telecommunications service to consumers in confinement facilities, Consolidated requests that the Commission waive certain requirements in ARSD 20:10:24:05 that may conflict with security and safety obligations at correctional facilities. The table below lists the requirements Consolidated seeks to be relieved from.

Requirement	Description	Justification for Waiver
<i>ARSD 20:10:24:05 (3)</i>	Requires signage to be posted in plain view of anyone using the telephone that identifies the rates may differ from the consumer’s long distance company	Signage is discouraged at inmate facilities for safety reasons
<i>ARSD 20:10:24:05 (5)</i>	Prohibits call blocking	Consolidated’s telephone system offers restrictive call blocking and screening in order to prevent fraudulent use of long distance services by inmates
<i>ARSD 20:10:24:05 (6)</i>	Requires the immediate transfer of emergency calls to the applicable emergency agency	Consolidated’s telephone system blocks emergency numbers in order to prevent fraudulent use of the 911 number and, further, Correction Officers need to coordinate emergency response in order for responders to gain access to the facility
<i>Last paragraph of ARSD 20:10:24:05</i>	Identifies that contracts between AOS companies and contracting entities must contain provisions for posting information required by ARSD 20:10:24:05 (3)	This paragraph would not be applicable should the Commission waive ARSD 20:10:24:05 (3) for Consolidated

Based on the information submitted in Consolidated's initial application and Consolidated's responses to a series of information requests, Staff believes that Consolidated has adequately demonstrated it meets, or will be able to meet, all requirements of ARSD 20:10:24:05 should the Commission grant waiver of the requirements discussed above.

STAFF RECOMMENDATION

Administrative Rule 20:10:24:03 establishes the grounds on which the Commission shall reject or deny an application for a COA. To avoid rejection by the Commission, Consolidated's application must be complete, accurate, and factual. To avoid denial by the Commission, Consolidated must demonstrate that it is financially, technically, and managerially able to provide AOS. Staff reviewed the record against these criteria and provides the following analysis in support of the Commission approving the COA:

- 1) *Regarding Application Completeness:* Staff believes that Consolidated has demonstrated in the record that it meets, or is able to meet, all requirements of ARSD 20:10:24:05 and 20:10:24:02. Further, Consolidated has properly requested waiver of certain requirements that the company is unable to meet due to its service offering.
- 2) *Regarding Information Accuracy and Factualness:* During review of Consolidated's application and the company's responses to information requests, Staff did not discover any statements that would bring into question the accuracy, factualness, or integrity of the information Consolidated has provided in the record.
- 3) *Regarding Financial Ability to Provide Service:* After review of the 12-month financials provided by Consolidated in response to information request number 1-1, Staff believes that the company has adequately demonstrated it has the financial ability to provide alternative operator services in South Dakota.
- 4) *Regarding Technical Ability to Provide Service:* Consolidated identifies in the application that as a reseller, they rely on the technical reputation and support of the underlying carrier. For other technical issues, such as billing and account set-up, Consolidated operates a call center that is available to customers 24 hours per day, 365 days per year. Consolidated further identifies that it is authorized to provide AOS in 12 others states and is in good standing with those states. Finally, an ancillary review on the world-wide-web from Staff did not turn up any repetitive technical issues documented through consumer complaints.

Given these facts, Staff believes Consolidated has adequately demonstrated they have the technical ability to provide alternative operator services in South Dakota.

- 5) *Regarding Managerial Ability to Provide Service:* Consolidated submitted resumes of key personnel in Exhibit B of the application. The resumes identify that Consolidated's management team has the industry experience and expertise necessary for managing an AOS company. In addition, Consolidated's Articles of Incorporation was filed with the Texas Secretary of State in 1990 and the company has managed to stay in business since. Given this, Staff believes Consolidated has adequately demonstrated the company has the managerial ability to provide alternative operator services in South Dakota.

In conclusion, Staff recommends that the Commission issue Consolidated a Certificate of Authority to provide alternative operator service in South Dakota. Staff further recommends that the Commission waive ARSD 20:10:24:05 (3), (5), (6), and the first sentence of the last paragraph of ARSD 20:10:24:05 for Consolidated.