

TC 97-184

C11/4-B

TC 97-184

DOCKET NO.

In the Matter of

IN THE MATTER OF THE FILING BY
CHEYENNE RIVER SIOUX TRIBE
TELEPHONE AUTHORITY FOR
DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
11/13/97	Filed and Packaged;
11/13/97	TC Not Filing,
11/21/97	Order for and Notice of Hearing;
12/5/97	Transcript of Hearing held on 12/3/97
3/8/97	File Filed Exhibit to the most application of the CRSTTA regarding
12/17/97	Issuing of Fact, Conclusion of Fact, Order and Notice of Entry of Order,
13/17/97	Revised Order.
1/2/98	Revised and Link Up Plan for CRSTTA

TC97-184

GREENE, MEYER & McLEROY

RECEIVED

NOV 14 1997

OF COUNSEL

PIERRE ANNE GREYSON

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

BRUCE R. GREENE
ELIZABETH MEYER
SCOTT B. McLEROY
M. CATHERINE CONDON
ALICE E. WALKER
TORI S. BURCH RATES

FAX Received NOV 13 1997

November 13, 1997

VIA FAX AND OVERNIGHT DELIVERY

Facsimile Number (605) 773-3809

South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

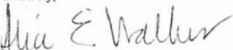
Re: In Re the Cheyenne River Sioux Tribe Telephone Authority

Dear Commissioners:

By this letter, I am filing via facsimile the Statement/Application of the Cheyenne River Sioux Tribe Telephone Authority Regarding Designation as Eligible Telecommunications Carrier, and Motion for Administrative Notice of Related Proceedings Before the Public Utilities Commission of South Dakota. The signatures on the Affidavits are faxed, and I will send the original signature pages on Monday, for delivery Tuesday, to substitute for the faxed signatures.

By separate delivery, I am forwarding the original and eleven copies of each of the documents for filing. Please file stamp the extra copy and return it in the self-addressed, stamped envelope enclosed. Thank you for your attention to this matter.

Sincerely,



Alice E. Walker

cc: J.D. Williams
William Bullard
Cannon Hoseck

enc. Statement/Application of the Cheyenne River Sioux Tribe Telephone Authority Regarding Designation as Eligible Telecommunications Carrier, and Motion for Administrative Notice of Related Proceedings Before the Public Utilities Commission of South Dakota (11 copies); self-addressed, stamped envelope.

South Dakota
Public Utilities Commission
State Capitol 500 E. Capitol
Pierre, SD 57501-5070
Phone: (800) 332-1782
Fax: (605) 773-3809

TELECOMMUNICATIONS SERVICE FILINGS

These are the telecommunications service filings that the Commission has received for the period of:

11/07/97 through 11/13/97

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five days of this filing.

DOCKET NUMBER	TITLE/STAFF/SYNOPSIS	DATE FILED	INTERVENTION DEADLINE
ORDER OPENING DOCKET			
TC97-181	In its Order on Reconsideration in Docket TC96-184, in the Matter of the Petition for Arbitration on Behalf of AT&T Communications of the Midwest Inc. with U S WEST Communications, Inc., the Commission stated that the prices, terms, and conditions set by the Commission in that docket were interim prices, terms, and conditions. The Commission further stated that it would open a new docket to set permanent prices, terms, and conditions for interconnection with U S WEST. At its October 28, 1997, meeting, the Commission considered whether to open a docket to set permanent prices, terms, and conditions for interconnection with U S WEST. U S WEST and AT&T both stated that they had no objection to the Commission opening the docket. The Commission unanimously voted to open the docket.	opened 11/07/97	11/28/97
REQUEST FOR ELIGIBLE TELECOMMUNICATIONS COMPANY STATUS			
TC97-182	Valley Telephone Company pursuant to 47 U.S.C. 214(e) and 47 C.F.R. 54.201 hereby seeks designation as an eligible telecommunications carrier within the local exchange areas that constitutes its service area in South Dakota. Valley is the facilities-based local exchange carrier presently providing local exchange telecommunications services in the following exchange in South Dakota: (605) 338 Browns Valley. Valley, to its knowledge, is the only carrier meeting the eligibility requirements of 47 U.S.C. 214(e) and 47 C.F.R. 54.201 in its exchanges. (Staff: HB/KC)	11/13/97	11/28/97
TC97-183	Farmers Mutual Telephone Company pursuant to 47 U.S.C. 214(e) and 47 C.F.R. 54.201 hereby seeks designation as an eligible telecommunications carrier within the local exchange areas that constitutes its service area in South Dakota. Farmers is the facilities-based local exchange carrier presently providing local exchange telecommunications services in the following exchange in South Dakota: (605) 324 Marietta. Farmers, to its knowledge, is the only carrier meeting the eligibility requirements of 47 U.S.C. 214(e) and 47 C.F.R. 54.201 in its exchanges. (Staff: HB/CH)	11/13/97	11/28/97
TC97-184	The Cheyenne River Sioux Tribe Telephone Authority (Telephone Authority) pursuant to 47 U.S.C. 214(e) and 47 C.F.R. 54.201 has been granted eligible telecommunications carrier status by the Cheyenne River Sioux Tribe, and for reasons set forth in its petition states that the Commission does not have jurisdiction to designate the Telephone Authority as an eligible telecommunications carrier. In the alternative, in the event that the Commission concludes that it has jurisdiction to designate eligible telecommunications carriers within the exterior boundaries of the Cheyenne River Indian Reservation, which the Telephone Authority does not concede, the Telephone Authority meets the requirements for designation as an eligible telecommunications carrier for its service area. (Staff: HB/CH)	11/13/97	11/28/97

Important Notice: The Commission is compiling a list of internet addresses. If you have an internet address please notify the Commission by E-mailing it to Terry Norum at: terryn@pucc.state.sd.us Faxing the address to the Commission at: 605-773-3809

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GREENE MEYER & McELROY

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NOV 18 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION
OF COUNSEL

PHOEBE ANNE GREYSON

BRUCE R. GREENE
ELIZABETH MEYER
SCOTT B. McELROY
M. CATHERINE CONDON
ALICE E. WALKER
TOBI S. BURCH-RATES

November 17, 1997

William Bullard, Executive Director
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

VIA FEDERAL EXPRESS

Re: In the Matter of the Filings by Telecommunications Companies for Designation as Eligible Telecommunications Carriers

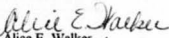
Dear Mr. Bullard:

Enclosed please find: 1) two original affidavit signature pages; and 2) a copy of Resolution No. 337-97-CR. Please substitute the original affidavit signature page 10 for the facsimile one included in the *Statement/Application of the Cheyenne River Sioux Tribe Telephone Authority Regarding Designation as an Eligible Telecommunications Carrier* (Nov. 13, 1997). Please substitute the other original affidavit signature page for the facsimile one included in Attachment 2 of the *Statement/Application*. Finally, please substitute the better copy of Attachment 1, Resolution No. 337-97-CR, for the one include in the *Statement/Application*.

As an additional matter, I do not appear to be receiving the Commission's orders regarding the ETC designation process. Would you please check your list of e-mail recipients of all Commission orders in the ETC designation matters, and make sure that I am on that list?

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions or comments.

Sincerely,



Alice E. Walker
AEW/dav

enc: original affidavit pages; copy of Resolution No. 337-97-CR

cc: Cameron Hoseck

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILINGS BY THE) ORDER FOR AND NOTICE
FOLLOWING TELECOMMUNICATIONS) OF HEARING
COMPANIES FOR DESIGNATION AS)
ELIGIBLE TELECOMMUNICATIONS)
CARRIERS:)

DICKEY RURAL TELEPHONE COOPERATIVE) TC97-176
)

DICKEY RURAL COMMUNICATIONS, INC.) TC97-177
)

NEBCOM, INC.) TC97-179
)

RED RIVER TELECOM, INC.) TC97-180
)

VALLEY TELEPHONE COMPANY) TC97-182
)

FARMERS MUTUAL TELEPHONE COMPANY) TC97-183
)

CHEYENNE RIVER SIOUX TRIBE TELEPHONE) ~~TC97-184~~
AUTHORITY)

CONSOLIDATED TELEPHONE COOPERATIVE) TC97-185
)

CTC COMMUNICATIONS, INC.) TC97-186
)

The South Dakota Public Utilities Commission (Commission) received requests from the above captioned telecommunications companies requesting designation as eligible telecommunications carriers.

The Commission electronically transmitted notice of the filings and the intervention deadlines to interested individuals and entities.

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26 and 49-31, including 1-26-18, 1-26-19, 49-31-3, 49-31-7, 49-31-7.1, 49-31-11, and 47 U.S.C. § 214(e)(1) through (5).

The issues at the hearing shall be as follows: (1) whether the above captioned telecommunications companies should be granted designation as eligible telecommunications carriers, and (2) what service areas shall be established by the Commission.

A hearing shall be held at 1:30 P.M., on Tuesday, December 2, 1997, in Room 464, State Capitol, Pierre, South Dakota. It shall be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights shall be forfeited if not exercised at the hearing. If you or your representative fail to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of this hearing, the Commission may either grant or deny the request from any of the above captioned telecommunications companies requesting designation as an eligible telecommunications carrier, and the Commission shall establish service areas for eligible telecommunications carriers. The Commission's decision may be appealed by the parties to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED that a hearing shall be held at the time and place specified above on the issues of whether the above captioned telecommunications companies should be granted designation as eligible telecommunications carriers, and the Commission shall establish service areas for eligible telecommunications carriers.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 21 day of November, 1997.

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	<i>William T. Bullard, Jr.</i>
Date	<u>11/21/97</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:
Commissioners Burg, Nelson and
Schoenfelder

William T. Bullard, Jr.
WILLIAM BULLARD, JR.
Executive Director

GREENE MEYER & MELROY

BRUCE R. GREENE
ELIZABETH MEYER
SCOTT B. MELROY
M. CATHERINE CONDON
ALICE E. WALKER
TODD S. BURCH RATES

OF COUNSEL
PHOEBE ANNE GREYSON

November 26, 1997

RECEIVED
DEC 01 1997
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Public Utilities Commission of South Dakota
State Capitol Building
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

Re: Docket No. TC97-184

Dear Commissioners:

The purpose of this letter is to inform you of a technical amendment to the Telecommunications Act of 1996 which unanimously passed in the Senate and the House of Representatives. S. 1354 amends 47 U.S.C. § 214(e) and the substantive section reads:

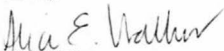
(6) COMMON CARRIERS NOT SUBJECT TO STATE COMMISSION JURISDICTION -- In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

Public Utilities Commission of South Dakota
November 26, 1997
Page 2

The enrolled bill has been sent to the President for signature, although the President has not yet signed the bill into law.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions.

Sincerely,



Alice E. Walker

cc: JD Williams

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

RECEIVED

DEC 05 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE FILINGS BY THE
FOLLOWING TELECOMMUNICATIONS
COMPANIES FOR DESIGNATION AS
ELIGIBLE TELECOMMUNICATIONS
CARRIERS:

DICKEY RURAL TELEPHONE COOPERATIVE	TC97-176
DICKEY RURAL COMMUNICATIONS, INC.	TC97-177
NEBCOM, INC.	TC97-179
RED RIVER TELECOM, INC.	TC97-180
VALLEY TELEPHONE COMPANY	TC97-182
FARMERS MUTUAL TELEPHONE COMPANY	TC97-183
CHEYENNE RIVER SIOUX TRIBE TELEPHONE AUTHORITY	TC97-184
CONSOLIDATED TELEPHONE COOPERATIVE	TC97-185
CTC COMMUNICATIONS, INC.	TC97-186

HEARD BEFORE THE PUBLIC UTILITIES COMMISSION

PROCEEDINGS:

December 2, 1997
1:30 P.M.
Room 464, Capitol Building
Pierre, South Dakota

PUC COMMISSION:

Jim Burg, Chairman
Laska Schoenfelder, Commissioner
Pam Nelson, Commissioner

0144.67.8

A P P E A R A N C E S

COMMISSION STAFF
PRESENT:

Rolayne Ailts Wiest
Camron Hoseck
Harlan Best

ALSO PRESENT:

Richard D.. Coit
P.O. Box 57
Pierre, SD 57501

I N D E X

WITNESSES:

PAGE:

Harlan Best

14

9. 70. 4410

P R O C E E D I N G S

CHAIRMAN BURG: Okay. I'll begin the hearing for the dockets relating to eligible telecommunications designation. The time is approximately 1:30, it would be about 1:40. The date is December 2nd, 1997; and the location of the hearing is Room 464, State Capitol, Pierre, South Dakota.

I am Jim Burg, Commission Chairman. Commissioners Laska Schoenfelder and Pam Nelson are also present. I'm presiding over this hearing. This hearing was noticed pursuant to the Commission's Order For and Notice of Hearing issued November 21, 1997.

The issue at this hearing shall be as follows: Whether the requesting telecommunications companies should be granted designation as eligible telecommunication carriers; and, two, what service areas shall be established by the Commission.

All parties have the right to be present and to be represented by an attorney. All persons so testifying will be sworn in and subject to cross-examination by the parties. The Commission's final decisions may be appealed by the parties to the State Circuit Court and State Supreme Court.

Rolayne Wiest will act as Commission counsel. She may provide recommended rulings on

1 procedural and evidentiary matters. The Commission may
2 overrule its counsel's preliminary rulings throughout
3 the hearing. If not overruled, the preliminary rulings
4 will become the final rulings.

5 And at this time I will turn it over to
6 Rolayne for the hearing.

7 MS. WIEST: Let's start with TC97-176. First
8 of all, Rich, who are you representing today?

9 MR. COIT: I'm appearing for four of the
10 companies listed in the order for the Notice of Hearing
11 and that is Dickey Rural Telephone Cooperative, Dickey
12 Rural Communications, Inc., Red River Telecom, Inc.,
13 and Cheyenne River Sioux Tribe Telephone Authority.

14 MS. WIEST: Is anyone else representing the
15 other companies? Apparently not.

16 MR. HOSECK: Not to my knowledge.

17 MS. WIEST: Okay. Well, let's take
18 appearances. Rich, you've already entered your
19 appearance. Staff.

20 MR. HOSECK: Camron Hoseck on behalf of
21 staff.

22 MS. WIEST: We'll begin with TC97-176. First
23 of all, I have one exhibit listed. Can we have a
24 motion to move that exhibit in?

25 MR. COIT: Yes. On behalf of Dickey Rural

0144.67.11

1 Telephone Cooperative, I would move for the admittance
2 into the record of Exhibit No. 1, which is their
3 request for ETC designation and dated October 28, 1997.

4 MS. WIEST: Any objection?

5 MR. HOSECK: No objection.

6 MS. WIEST: If not, that has been admitted.

7 Are there any questions concerning this docket? Do you
8 have anything to add?

9 MR. COIT: I don't have anything to add
10 beyond the application. I believe they responded to
11 the single party service question adequately, and also
12 I hope they've responded to the toll control to the
13 Commission's satisfaction.

14 MS. WIEST: Yes. My only question is they
15 didn't have a time frame, so I assume it would be the
16 one-year waiver for toll control?

17 MR. COIT: Yeah. I spoke with Roger Johnson,
18 who is the manager for Dickey Rural Co-op and Dickey
19 Rural Communications, yesterday and he indicated that a
20 one-year waiver would be just fine.

21 MS. WIEST: Okay. Is there a motion?

22 CHAIRMAN BURG: I'll move we grant approval
23 of Dickey Rural Telephone Co-op's ETC request with the
24 two waivers.

25 MS. WIEST: I'm sorry, I believe I thought at

1 this time we were only doing waivers and we were going
2 to do all the approvals next the 11th.

3 CHAIRMAN BURG: You're right. I'll move we
4 grant the waivers for both the single party service
5 and --

6 COMMISSIONER SCHOENFELDER: We don't need a
7 waiver for single party, I believe.

8 MS. WIEST: We only need the one-year toll
9 control.

10 CHAIRMAN BURG: Yeah, one-year toll control.

11 COMMISSIONER NELSON: I'd second.

12 COMMISSIONER SCHOENFELDER: I'd concur.

13 MS. WIEST: Let's go to TC97-177. And I have
14 one exhibit.

15 MR. COIT: Yes. And I would at this time
16 make a motion to admit into the record the request for
17 ETC designation of Dickey Rural Communications, Inc.,
18 which has been marked Exhibit 1, which is also dated
19 October 28th, 1997.

20 MS. WIEST: Any objection?

21 MR. HOSECK: None.

22 MS. WIEST: If not, it's been admitted. Any
23 questions concerning this docket? If not, I believe
24 this docket needs a one-year waiver on toll control.
25 Is there a motion?

1 COMMISSIONER NELSON: I'd move that we grant
2 a waiver for the toll control in TC97-177.

3 COMMISSIONER SCHOENFELDER: Seconded.

4 CHAIRMAN BURG: Concur.

5 MS. WIEST: We'll move on to TC97-179. I
6 have two exhibits. Is there a motion?

7 COMMISSIONER NELSON: No waivers?

8 MS. WIEST: Would staff care to move these
9 in?

10 MR. HOSECK: Yeah, I'll make a motion to move
11 in the request for ETC designation on behalf of Nebcom
12 Inc., and a supplemental affidavit of November 24,
13 1997.

14 MS. WIEST: And those would be Exhibits 1 and
15 2. Any objection? If not, they are admitted. And for
16 this, my understanding is that all they need is the
17 one-year waiver for the toll control.

18 COMMISSIONER SCHOENFELDER: Okay. And I
19 would move we grant the one-year waiver for toll
20 control to Nebcom in TC97-179.

21 CHAIRMAN BURG: I'll second it.

22 COMMISSIONER NELSON: And I concur.

23 MS. WIEST: Moving on to TC97-180. I have
24 one exhibit in this docket. Is there a motion?

25 MR. COIT: Yes. Richard Coit on behalf of

1 Red River Telecom, Inc. I would move to admit their
2 request for ETC designation marked Exhibit No. 1, which
3 is dated November 3rd, 1997. I would also note that I
4 spoke with Mr. Arden Doran, and he is agreeable or
5 would request the one-year waiver with respect to toll
6 control services.

7 MS. WIEST: Any objection to Exhibit 1?

8 MR. HOSECK: No objection.

9 MS. WIEST: If not, it's been admitted. Is
10 there a motion?

11 CHAIRMAN BURG: I'll move we grant a one-year
12 waiver of toll control for Red River Telecom, Inc.

13 COMMISSIONER NELSON: I second.

14 COMMISSIONER SCHOENFELDER: Concur.

15 MS. WIEST: We'll move on to TC97-182. I
16 have two exhibits. Is there a motion?

17 MR. HOSECK: I would move the request for ETC
18 designation on behalf of Valley Telephone Company.
19 This is November 10, 1997, and a supplemental affidavit
20 of December 1, 1997, into evidence.

21 MS. WIEST: Any objection? If not, it's been
22 admitted. And this application also needs the one-year
23 waiver for toll control.

24 CHAIRMAN BURG: I'll move we grant a one-year
25 waiver of toll control to Valley Telephone Company.

1 COMMISSIONER NELSON: I second.

2 COMMISSIONER SCHOENFELDER: Concur.

3 MS. WIEST: Then I'll move on to TC97-183. I
4 have two exhibits -- three exhibits.

5 COMMISSIONER SCHOENFELDER: Three.

6 MR. HOSECK: I would move the request for ETC
7 designation on behalf of Farmers Mutual Telephone
8 Company of November 10, 1997, and a supplemental
9 affidavit of November 26th, 1997, into evidence.

10 MS. WIEST: Is there any objection to
11 Exhibits 1 through 3? If not, they've been admitted.

12 MR. HOSECK: Excuse me, there is a clerical
13 thing. We actually have three affidavits, three
14 exhibits. I only mentioned two. There is another
15 supplemental affidavit that I would move in of November
16 18, 1997.

17 MS. WIEST: Okay. I have Exhibits 1, 2 and
18 3. Any objection? If not, they have been admitted.
19 And in this instance I believe they need a waiver on
20 toll control. It didn't request a specific time
21 period, but I'd recommend the one-year waiver.

22 COMMISSIONER SCHOENFELDER: I would move that
23 we grant a waiver for toll control for one year to
24 Farmers Mutual Telephone Company, which is TC97-183.

25 MS. WIEST: At this point we will go to

1 TC97-185. And this docket, I believe, I have one
2 exhibit. Is there a motion?

3 MR. HOSECK: I would move the request for ETC
4 designation on behalf of Consolidated Telephone
5 Cooperative, dated November 17, 1997, into evidence.

6 MS. WIEST: Is there any objection? If not,
7 it's been admitted. Again, in this one they didn't
8 specifically request a time period, but I'd recommend
9 the one-year waiver on the toll control.

10 CHAIRMAN BURG: I'll move we grant a one-year
11 waiver of toll control to Consolidated Telephone
12 Cooperative.

13 COMMISSIONER NELSON: I'd second.

14 COMMISSIONER SCHOENFELDER: Concur.

15 MS. WIEST: Then we go to TC97-186, and I
16 have two exhibits. Is there a motion?

17 MR. HOSECK: I would move the request for ETC
18 designation on behalf of CTC Communications, Inc., into
19 evidence, the request being dated November 17, 1997,
20 and the supplement to that of November 26th, 1997. I
21 would move both of those into evidence.

22 MS. WIEST: Any objection? If not, they've
23 been admitted. Again, they are requesting waiver from
24 toll control. No time period was specified. I'd
25 recommend the one year.

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1 CHAIRMAN BURG: I'll move we grant a one-year
2 waiver of toll control for CTC Communications,
3 Incorporated.

4 COMMISSIONER NELSON: Second.

5 COMMISSIONER SCHOENFELDER: Concur.

6 MS. WIEST: At this time I guess we'll go off
7 the record and wait for further information on
8 TC97-184.

9 (AT THIS TIME A SHORT RECESS WAS TAKEN.)

10 MS. WIEST: Let's go back on the record.
11 TC97-184. At this time I have one exhibit.

12 MR. COIT: Yes. This is Richard Coit
13 representing CRST today. In addition to that exhibit,
14 I think there was a motion that attorneys for Cheyenne
15 River Sioux Tribe had filed asking for the motion to
16 take some administrative notice.

17 MS. WIEST: Yes.

18 MR. COIT: And I'd appreciate it if you could
19 rule on that as well.

20 MS. WIEST: Okay. First of all, Exhibit 1,
21 is there any objection to Exhibit 1 being admitted?

22 MR. HOSECK: That's the application?

23 MS. WIEST: That's the application.

24 MR. HOSECK: No objection.

25 MS. WIEST: If not, it has been admitted.

1 Then is there any comment on the motion for
2 administrative notice of related proceedings?

3 MR. HOSECK: Yes. Staff would resist the
4 motion on the basis that the motion calls for the
5 Commission to review the entire proceedings in the
6 TC94-122 case, which is the sale of exchanges, as the
7 grounds for granting the ETC designation. The basis of
8 resisting this is that it's a burdensome request which
9 is placed upon the Commission to go through that entire
10 record to extract those facts. And, secondly, J. D.
11 Williams has submitted an affidavit dated November 13,
12 1997, which does set out, at least for the most part,
13 the ability of the Cheyenne River Telephone Authority
14 to meet these requirements. So the objection is
15 resisted on the basis of it's burdensome and it's
16 redundant in that the evidence is already in the record
17 by reason of Mr. Williams' affidavit.

18 MS. WIEST: Well, on the issue of burdensome,
19 actually in their application they do reference
20 specific page numbers in exhibits, so I don't believe
21 that it is necessarily burdensome. It may be that the
22 affidavit does cover all this, but I would recommend
23 that the Commission grant the motion.

24 CHAIRMAN BURG: The motion to do what again?

25 MS. WIEST: Motion for administrative notice

0144.67.19

1 of other proceedings.

2 CHAIRMAN BURG: I'll move that we do grant
3 administrative notice.

4 COMMISSIONER NELSON: I'd second it.

5 COMMISSIONER SCHOENFELDER: I can concur, I
6 guess. I think it is probably redundant but it's
7 okay.

8 MS. WIEST: Okay. That's been granted three
9 to zero. And then the other point I would make is that
10 reading the affidavit by Mr. Williams, it is
11 confusing. I believe he references toll blocking when
12 he actually means toll control. And I would like that
13 to be clarified in a late-filed exhibit. Plus, another
14 clarification needs to be made concerning Lifeline and
15 Link Up services. Specifically, that as with the other
16 parties have stated that Cheyenne River will comply
17 with the FCC rules regarding Lifeline and Link Up
18 services. Is there anything else? And if those two
19 clarifications could be made within a late-filed
20 exhibit, the Commission will consider that late-filed
21 exhibit and intends to rule on all ETC applications on
22 December 11th. Are there any questions? Anything from
23 staff on that?

24 MR. HOSECK: Nothing further from staff.

25 MS. WIEST: Does staff have any witnesses?

1 MR. HOSECK: Yes. Staff has a witness,
2 Harlan Besc, who I would call to the stand at this
3 time.

4 HARLAN BEST,
5 called as a witness, being first duly sworn,
6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY MR. HOSECK:

9 Q. And for purposes of the record, Mr. Best,
10 testimony will be directed to all of the applicants of
11 this proceeding as it's noticed to date. I have an
12 exhibit which has been marked as Staff's Exhibit 1,
13 which I have distributed to the Commission at this time
14 and I will move into evidence just a little bit later.
15 State your name for the record, please.

16 A. Harlan Best.

17 Q. What's your job?

18 A. I am deputy director of fixed utilities with
19 the Public Utilities Commission, South Dakota.

20 Q. And are you familiar with the dockets as are
21 noticed in today's proceeding for applications for
22 eligible telecommunications carriers?

23 A. Yes.

24 Q. And are those the same companies that are
25 listed on Staff Exhibit No. 1?

1 A. Yes.

2 Q. And could you explain briefly for the record
3 what Staff Exhibit No. 1 is?

4 A. Exhibit 1 is a compilation of the respective
5 eligible telecommunications carriers' requests that are
6 before the Commission today.

7 Q. Do you have any corrections or additions that
8 you wish to make to Staff Exhibit No. 1?

9 A. I believe the one for column under Cheyenne
10 River Sioux Tribe Telephone Authority, I believe it's
11 correct as stated. But the Commission has requested
12 further information from CRST, specifically from the
13 manager, J. D. Williams, which would clarify the toll
14 control and the CRST's intent to implement Lifeline,
15 Link Up.

16 MR. HOSECK: Okay. With that correction, or
17 with that clarification, I would move Staff Exhibit No.
18 1 into the record.

19 MS. WIEST: Any objection? If not, it's been
20 admitted.

21 Q. Okay. With regard to the applicants as
22 noticed in these proceedings today, have you reviewed
23 their ability to meet the criteria set forth in 47
24 C.F.R. Section 54.101(a)?

25 A. Yes. Each of the companies did respond to

8144.67.22

1 those, to the nine items set forth under that
2 requirement.

3 Q. And with regard to the Lifeline and Link Up
4 requirement, was there a response from all of the
5 applicants on that?

6 A. Yes, there was.

7 Q. And with regarding the designating of a
8 service area, was there a response from the applicants
9 on that issue?

10 A. Yes. The Respondents -- or the applicants
11 stated the exchanges and the prefixes where the ETC
12 request would apply.

13 Q. And with regard to the advertising of
14 services that might be available on an exchange-wide
15 basis, did the applicants address that issue?

16 A. Yes. The applicants stated that they would
17 be willing to advertise on a going-forward basis in
18 accordance with any specific advertising standards that
19 the Commission may develop. The CRST states that they
20 are advertising presently in media of general
21 distribution in their service area.

22 Q. Based upon your review of these facts as
23 represented by these applicants, in your opinion, have
24 the applicants presented the facts necessary for the
25 Commission to decide this ETC designation?

1 A. With the exception of CRST, yes.

2 Q. Okay. And with regard to advertising
3 services exchange-wide, do you have a recommendation to
4 the Commission for a provision to be included in an
5 order which would come out of these proceedings?

6 A. Yes.

7 Q. And what is that recommendation?

8 A. That the telephone companies advertise their
9 rates annually or whenever a rate changes.

10 Q. And, finally, do you have an opinion as to
11 whether or not the applicants qualify for an ETC
12 designation?

13 A. Yes, I believe they do, with the caveat again
14 on CRST receiving -- the Commission receiving
15 additional information.

16 MR. HOSECK: I have no further questions of
17 this witness.

18 MS. WIEST: Any questions? Any further
19 witnesses?

20 MR. HOSECK: No further witnesses. Staff
21 rests.

22 MS. WIEST: At this point I believe we can
23 close the hearing and make the final decisions next
24 Thursday.

25 (A DISCUSSION WAS HELD OFF THE RECORD.)

1 MS. WIEST: Let's go back on the record.

2 COMMISSIONER SCHOENFELDER: Well, I would
3 just like to have Mr. Coit ask J. D. Williams at the
4 Cheyenne River Telephone Authority if they don't have
5 more exchanges that they need to apply for other than
6 the Dupree and Isabel Exchanges; if, in fact, Eagle
7 Butte would not be an exchange that they would need ETC
8 designation for; and perhaps there might even about
9 another exchange in their tribal authority telephone
10 service area that they would need an ETC designation
11 for.

12 MR. COIT: I will do that, Commissioner.

13 COMMISSIONER SCHOENFELDER: Thank you.

14 MS. WIEST: Okay. Is there anything else at
15 this point?

16 MR. HOSECK: If that is the case, is this
17 something that can be handled through a supplemental
18 filing in this matter?

19 MS. WIEST: I believe the application might
20 have to be amended and then the questions whether also
21 Mr. Williams would have to amend or put in a
22 supplemental affidavit on this issue. Because we will
23 need -- I mean we certainly need it on the record that
24 all of these exchanges are requesting ETC designation.

25 MR. HOSECK: Well, for the record, why don't

1 we just -- staff would just suggest that if that is
2 their desire, then to have them go ahead and amend
3 their application as it is presently before the
4 Commission and supplement their affidavit to make sure
5 that those criteria are met for those exchanges. And
6 then staff has no objection to the Commission
7 considering it on the record as --

8 MS. WIEST: As a late-filed exhibit?

9 MR. HOSECK: As a late-filed exhibit both as
10 to the amending of the petition and the supplemental
11 information that would be sent in. Does that sound
12 like something --

13 MR. COIT: That sounds very reasonable.

14 COMMISSIONER SCHOENFELDER: It's very
15 possible that, you know, I may be in error about there
16 being -- those being separate exchanges, but I do think
17 that since I feel that way about it, we need it
18 clarified, at least.

19 MS. WIEST: Okay. Any other questions or
20 comments? Thank you.

21 (THE HEARING CONCLUDED AT 2:30 P.M.)
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1 STATE OF SOUTH DAKOTA)
2 COUNTY OF HUGHES)

3
4 I, Lori J. Grode, RMR, Notary Public, in and
5 for the State of South Dakota, do hereby certify that
6 the above hearing, pages 1 through 19, inclusive, was
7 recorded stenographically by me and reduced to
8 typewriting.

9 I FURTHER CERTIFY that the foregoing
10 transcript of the said hearing is a true and correct
11 transcript of the stenographic notes at the time and
12 place specified hereinbefore.

13 I FURTHER CERTIFY that I am not a relative or
14 employee or attorney or counsel of any of the parties,
15 nor a relative or employee of such attorney or counsel,
16 or financially interested directly or indirectly in
17 this action.

18 IN WITNESS WHEREOF, I have hereunto set my
19 hand and seal of office at Pierre, South Dakota, this
20 5th day of December, 1997.

21
22 Lori Grode
23 Levi J. Grode, RMR
24
25

ELIGIBLE TELECOMMUNICATIONS CARRIER REQUEST

Considered Telephone TCR-168 NC	CTC Considered TCR-168 CH
47 C.F.R. 64.1010	
1. Local grade access to public switched network	Yes
2. Local usage	Yes
3. Local long-range emergency signaling or its functional equivalent	Yes
4. Single party service or its functional equivalent	Yes
5. Access to emergency services	Yes
6. Access to operator services	Yes
7. Access to time-of-day services	Yes
8. Access to directory assistance	Yes
9. All facilities for qualifying business customers	Yes
10. All facilities for qualifying business customers	Yes
11. All facilities for qualifying business customers	Yes
12. All facilities for qualifying business customers	Yes
13. All facilities for qualifying business customers	Yes
14. All facilities for qualifying business customers	Yes
15. All facilities for qualifying business customers	Yes
16. All facilities for qualifying business customers	Yes
17. All facilities for qualifying business customers	Yes
18. All facilities for qualifying business customers	Yes
19. All facilities for qualifying business customers	Yes
20. All facilities for qualifying business customers	Yes
21. All facilities for qualifying business customers	Yes
22. All facilities for qualifying business customers	Yes
23. All facilities for qualifying business customers	Yes
24. All facilities for qualifying business customers	Yes
25. All facilities for qualifying business customers	Yes
26. All facilities for qualifying business customers	Yes
27. All facilities for qualifying business customers	Yes
28. All facilities for qualifying business customers	Yes
29. All facilities for qualifying business customers	Yes
30. All facilities for qualifying business customers	Yes
31. All facilities for qualifying business customers	Yes
32. All facilities for qualifying business customers	Yes
33. All facilities for qualifying business customers	Yes
34. All facilities for qualifying business customers	Yes
35. All facilities for qualifying business customers	Yes

continued

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TC 97-184
RECEIVED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

NOV 14 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE FILINGS)
BY TELECOMMUNICATIONS)
COMPANIES FOR DESIGNATION AS)
ELIGIBLE TELECOMMUNICATIONS)
CARRIERS)

STATEMENT/APPLICATION OF THE
CHEYENNE RIVER SIOUX TRIBE
TELEPHONE AUTHORITY
REGARDING DESIGNATION AS
ELIGIBLE TELECOMMUNICATIONS
CARRIER

FAX Received NOV 13 1997

DOCKET NO. TC 97-____

The Cheyenne River Sioux Tribe Telephone Authority ("Telephone Authority") respectfully submits this statement regarding designation as an eligible telecommunications carrier ("ETC") pursuant to § 214(e) of the Telecommunications Act of 1996 (codified as amended at 47 U.S.C. § 214(e)). For the reasons set forth below, the Public Utilities Commission of South Dakota ("Commission") does not have jurisdiction to designate the Telephone Authority as an ETC for purposes of the Telecommunications Act of 1996. Because the Cheyenne River Sioux Tribe already has designated the Telephone Authority as an ETC, further action by the Commission is unnecessary. In the alternative, in the event that the Commission concludes that it has jurisdiction to designate ETCs within the exterior boundaries of the Cheyenne River Indian Reservation, which the Telephone Authority does not concede, the Telephone Authority meets the requirements for designation as an ETC for its service area.¹

¹Because the Telephone Authority already has provided the Commission with information regarding the services it provides to its customers in a related proceeding. In the Matter of the Sale of Certain Telephone Exchanges by U.S. West Communications, Inc. to Certain Telecommunications Companies in South Dakota, No. TC94-122 ("Sales Proceedings"), the Telephone Authority herein refers to the evidence it produced and the decisions rendered by the



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I. STATUTORY REQUIREMENTS

Telecommunications carriers may receive federal funds to support universal service. The goal of universal service is to ensure access to quality telecommunications services at affordable rates in rural and high cost areas, as well as to low income consumers, libraries and schools. See 47 U.S.C. § 254(b).

The Telecommunications Act of 1996 provides that "only an eligible telecommunications carrier designated under section 214(e) shall be eligible to receive specific Federal universal service support." 47 U.S.C. § 254(e). Thus, the threshold requirement for receiving federal universal service support is receiving designation as an ETC. The Act states:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1).

47 U.S.C. § 214(e)(2).

Section 214(e) allows designated ETCs to receive federal universal service support funds in their service areas if they offer the required services and advertise the availability of such services. 47 U.S.C. § 214(e)(1). In order to receive ETC designation from a state utilities

Commission in that proceeding in order to avoid duplication of the Telephone Authority's and the Commission's efforts. By separate motion, filed simultaneously with this application, the Telephone Authority has moved that the Commission take administrative notice of the evidence the Telephone Authority produced and the decisions rendered by the Commission in the Sales Proceedings

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commission, a telecommunications carrier must demonstrate that it can provide: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equal; (4) single party services or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers. 47 C.F.R. §§ 54.101(a), 54.201.

The Telephone Authority is a tribal entity, established by the Cheyenne River Sioux Tribe's Ordinance 24. It is undisputed that the Cheyenne River Sioux Tribe is the government with sovereign authority to act within the exterior boundaries of the Cheyenne River Indian Reservation. See Memorandum Decision at 28-30, Cheyenne River Sioux Tribe Telephone Authority v. Public Utilities Comm'n of S.D., Civ. No. 95-288 (6th Cir. Ct. Feb. 21, 1997).² The Telephone Authority currently provides telecommunications services in the Isabel and Dupree telephone exchanges, which are located within the exterior boundaries of the Cheyenne River Indian Reservation ("Reservation"). Id. at 8; Transcript of Hearing Before the Public Utilities Commission of South Dakota ("Exhibit 22") at 119, 123, Sales Proceedings (Apr. 17, 1995). See, e.g., Decision and Order Regarding Sale of the Morristown Exchange at 4, Sales Proceedings (July 31, 1995).

Examining each of the requirements of the FCC's regulations, the Tribe designated the Telephone Authority as an ETC within the Reservation:

[T]he Cheyenne River Sioux Tribe finds that the Cheyenne River

²Because it is a division of the Cheyenne River Sioux Tribe, the Telephone Authority has sovereign immunity, and by filing this motion, the Telephone Authority does not waive its sovereign immunity, nor is anything contained herein intended to be construed as such a waiver.

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Sioux Tribe Telephone Authority uses its own facilities-based network to provide: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equivalent; (4) single party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; and (8) access to directory assistance; and

* * *

the Cheyenne River Sioux Tribe finds that the Cheyenne River Sioux Tribe Telephone Authority provides toll blocking, but toll control is virtually unavailable within the United States because it requires instantaneous real time call rating. Accordingly, the Cheyenne River Sioux Tribe grants a suspension of this requirement for eligible telecommunications carrier designation to the extent that such a suspension is required.

* * *

the Cheyenne River Sioux Tribe designates the Cheyenne River Sioux Tribe Telephone Authority as an eligible telecommunications carrier within its local exchange area.

Cheyenne River Sioux Tribe Resolution No. 337-97-CR (Nov. 5, 1997) (attached hereto as

Attachment 1).

**II. THE CHEYENNE RIVER SIOUX TRIBE
IS THE SOVEREIGN GOVERNMENT THAT
MUST DESIGNATE ETCs WITHIN
RESERVATION BOUNDARIES**

The Telecommunications Act of 1996 does not require the Telephone Authority to apply to the Commission for ETC designation because the Commission does not have jurisdiction within the exterior boundaries of the Reservation. It is settled "that the State has no authority over tribal enterprises like the CRSTTA conducting business on the Cheyenne River Sioux Reservation."

Memorandum Decision at 12, Cheyenne River Sioux Tribe Telephone Authority v. Public

Utilities Comm'n of S.D., Civ. No. 95-288 (6th Cir. Ct. Feb. 21, 1997). The Telecommunications Act of 1996 requires that the "State commission" designate ETCs. 47 U.S.C. § 214 (e)(2). The Commission, however, cannot designate the Telephone Authority as the ETC within Reservation boundaries because it lacks regulatory jurisdiction over tribal telephone operations there. Thus, while section 214(e)(2) of the Act is not facially ambiguous, an extrinsic ambiguity arises with respect to the Telephone Authority because the goal of the provision cannot be satisfied through a literal reading of the language.

In Reich v. Great Lakes Indian Fish & Wildlife Comm'n, 4 F.3d 490 (7th Cir. 1993), the court held that reference by Congress to one government -- the State commission -- must necessarily include the government with jurisdiction to act -- in this case the Cheyenne River Sioux Tribe. In such a situation, the court cannot read the statute literally because to do so would render the statute senseless.

[L]iteral readings of statutes -- readings that refuse to take into account any ambiguities that are not visible on the face of the statute -- are rather in vogue in the Supreme Court these days [Yet] even literalists do not interpret statutes literally when doing so would produce a result senseless in the real world. Even literalists, that is to say, acknowledge the applicability to statutes of the principle of contract interpretation that allows the courts to seek meaning beneath the semantic level not only when there is an "intrinsic" ambiguity in the contract but also when there is an "extrinsic" one, that is, when doubt that the literal meaning is the correct one arises only when one knows something about the concrete activities that the contract was intended to regulate.

Id. at 493-494 (citations omitted). See also Citicorp Industrial Credit, Inc. v. Brock, 483 U.S. 27 (1987); Green v. Beck Laundry Machine Co., 490 U.S. 504, 527-530 (1989) (concurring opinion). Thus, Congress' failure to mention that Indian tribal governments must designate ETCs

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operating within Indian reservations for purposes of the Telecommunications Act of 1996 was oversight. See *id.* at 494. Moreover, as a matter of comity, the Cheyenne River Sioux Tribe must implement the Act within Reservation boundaries, just as the Commission must implement the Act elsewhere in the state. *Id.* at 495. In sum, the term "State commission" as used in the Act must be read to include the Cheyenne River Sioux Tribe as the government with jurisdiction to designate ETCs within Reservation boundaries.

Accordingly, the Cheyenne River Sioux Tribe has implemented the Telecommunications Act of 1996, and has designated the Telephone Authority as the ETC for the Dupree and Isabel telephone exchanges.

**III. ALTERNATIVELY, THE TELEPHONE
AUTHORITY MEETS THE REQUIREMENTS
FOR ETC DESIGNATION**

Alternatively, assuming that the Commission concludes that it has jurisdiction to designate ETCs within the exterior boundaries of the Cheyenne River Indian Reservation, which the Telephone Authority does not concede, the Telephone Authority meets the requirements for designation as an ETC for its service area.

1. As required by 47 C.F.R. § 54.101(a)(1), the Telephone Authority provides voice grade access to the public switched network, using all digital switches, fiberoptic cable and equal access conversion. Affidavit of J.D. Williams ¶ 3(A) (attached hereto as Attachment 2); Exhibit 22 at 120, *Sales Proceedings*

2. As required by 47 C.F.R. § 54.101(a)(2), the Telephone Authority provides local usage free of per-minute charges under a flat-rated local service package. Affidavit of J.D. Williams ¶ 3(B).

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3. As required by 47 C.F.R. § 54.101(a)(3), the Telephone Authority provides dual tone multi-frequency signaling. Affidavit of J.D. Williams ¶ 3(C).

4. As required by 47 C.F.R. § 54.101(a)(4), the Telephone Authority provides "single party service to all subscribers [] in Dewey and Ziebach Counties, which was the entire Cheyenne River Sioux Reservation." Exhibit 22 at 119, Sales Proceedings. Accord Affidavit of J.D. Williams ¶ 3(D).

5. As required by 47 C.F.R. § 54.101(a)(5), the Telephone Authority provides access to emergency services, including "free firebar service to all its service communities." Exhibit 22 at 124, Sales Proceedings. The Telephone Authority has also recently implemented 911 and enhanced 911 emergency services in accordance with an agreement with Dewey and Ziebach counties whose governments approved the imposition of the 911 and enhanced 911 tax so that the Telephone Authority could implement these services. See Attachment 3 hereto (newspaper notices of Counties' agreement to 911 charge). See also Exhibit 22 at 125, Sales Proceedings. Affidavit of J.D. Williams ¶ 3(E).

6. As required by 47 C.F.R. § 54.101(a)(6), the Telephone Authority provides access to operator services. Affidavit of J.D. Williams ¶ 3(F).

7. As required by 47 C.F.R. § 54.101(a)(7), the Telephone Authority provides access to interexchange service by consistently offering extended area service to all its customers. Exhibit 22 at 127-128, Sales Proceedings. Affidavit of J.D. Williams ¶ 3(G).

8. As required by 47 C.F.R. § 54.101(a)(8), the Telephone Authority provides access to directory assistance. Affidavit of J.D. Williams ¶ 3(H).

9. As required by 47 C.F.R. § 54.101(a)(9), the Telephone Authority will provide toll

limitation services, including Lifeline, 47 C.F.R. § 54.401, and Link Up, 47 C.F.R. § 54.411, when toll limitation becomes technologically available. Affidavit of J.D. Williams ¶ 4. Pursuant to 47 C.F.R. § 54.101(c), because the Telephone Authority meets all other requirements for designation as an ETC, the Telephone Authority respectfully requests that the Commission grant it "additional time to complete the network upgrades needed to provide . . . toll limitation." *Id.*

10. As required by 47 C.F.R. § 54.201(d)(2), the Telephone Authority advertises the availability of its services within its service area. Exhibit 22 at 126 (describing public demonstration "featuring an interactive video services vendor"), 130 (setting forth plans to expand marketing activities), Sales Proceedings, Affidavit of J.D. Williams ¶ 5. Prior to this filing, the Telephone Authority has not generally advertised the prices charged for all of the above-identified services, but will do so in accord with any specific advertising standards that the Commission may develop.

Thus, the Telephone Authority qualifies for ETC designation for the telephone exchanges it operates within the exterior boundaries of the Reservation, which constitutes its service area.

IV. CONCLUSION

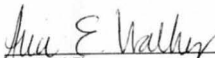
The Cheyenne River Sioux Tribe is the government with jurisdiction over the Telephone Authority's activities within the Reservation, and has designated the Telephone Authority as an ETC as part of the Tribe's implementation of the Telecommunications Act of 1996. Because the Commission lacks jurisdiction within Reservation boundaries, the Telecommunications Act of 1996 does not require the Commission to take any action with regard to the Telephone Authority's actions on the Reservation.

Alternatively, the Telephone Authority respectfully requests that the Commission:

- ND. 70. 4428
- (a) grant a waiver of the requirement to provide "toll control" service; and
 - (b) designate the Telephone Authority as an ETC for the local exchange area that constitutes its present service area in South Dakota.

Dated Nov 13, 1997

Respectfully submitted,

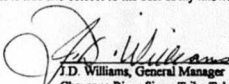


Scott B. McElroy
Alice E. Walker
Greene, Meyer & McElroy, P.C.
1007 Pearl Street, No. 220
Boulder, Colorado 80302
(303) 442-2021

*Attorneys for the Cheyenne River Sioux
Tribe Telephone Authority*

AFFIDAVIT

I, J.D. WILLIAMS, being duly sworn, state that I am the general manager of the Cheyenne River Sioux Tribe Telephone Authority, that I have read the Statement/Application of the Cheyenne River Sioux Tribe Telephone Authority regarding Designation as an Eligible Telecommunications Carrier, and the same is true and correct to the best of my knowledge, information and belief.


J.D. Williams, General Manager
Cheyenne River Sioux Tribe Telephone
Authority

STATE OF SOUTH DAKOTA)
CITY/COUNTY OF DeWey) ss:

SUBSCRIBED AND SWORN to before me this 13th day of Nov, 1997 by
J.D. Williams.


Notary Public

My Commission Expires: 11-04-04

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RESOLUTION NO. 337-97-CR

- WHEREAS, the Cheyenne River Sioux Tribe of South Dakota is an unincorporated Tribe of Indians, having accepted the provisions of the Act of June 18, 1934 (48 Stat. 984), and
- WHEREAS, the Tribe, in order to establish its Tribal organization; to conserve its Tribal property; to develop its common resources; and to promote its general welfare of its people, has ordained and established a Constitution and By-Laws; and
- WHEREAS, the Cheyenne River Sioux Tribe Telephone Authority was established pursuant to Tribal Ordinance #24 and, under Article I and Article IV of that ordinance, is vested with the power "to acquire, by purchase or otherwise, and to own and maintain and operate telephone and telegraph lines and telephone exchanges within the State of South Dakota," and
- WHEREAS, section 214 (e) of the Telecommunications Act of 1996, 47 U.S.C. § 214 (e), and sections 54.201 through 54.207 of the Federal Communications Commission ("FCC") provide for the designation of "eligible telecommunications carriers" by the regulatory bodies having jurisdiction over these carriers for the purpose of directing the flow of federal universal service funding; and
- WHEREAS the Cheyenne River Sioux Tribe, its members and all residents of the Cheyenne River Indian Reservation will benefit from the continued and uninterrupted receipt of cost recovery from interstate mechanisms established to foster universal service because the amount of cost to be recovered through basic, recurring charges to users will be minimized accordingly, thereby assisting efforts to maintain reasonable basic rate levels; and
- WHEREAS, the Cheyenne River Sioux Tribe finds that the Cheyenne River Sioux Tribe Telephone Authority has satisfied the requirement for advertising the availability of its services by utilizing standard subscriber notification, public notice and marketing procedures; and
- WHEREAS, the Cheyenne River Sioux Tribe finds that the Cheyenne River Sioux Tribe Telephone Authority uses its own facilities-based network to provide: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equivalent; (4) single party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; and (8) access to directory assistance; and
- WHEREAS, the Cheyenne River Sioux Tribe finds that the Cheyenne River Sioux Tribe Telephone Authority provides toll blocking, but toll control is virtually unavailable within the United States because it requires instantaneous real time call rating. Accordingly, the Cheyenne River Sioux Tribe grants a suspension of this requirement for eligible telecommunications carrier designation to the extent that such a suspension is required.
- THEREFORE BE IT RESOLVED that the Cheyenne River Sioux Tribe finds that the Cheyenne River Sioux Tribe Telephone Authority has satisfied the conditions necessary for designation as an eligible telecommunications carrier within its local exchange area.

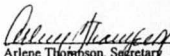
BE IT FURTHER RESOLVED that the Cheyenne River Sioux Tribe designates the Cheyenne River Sioux Tribe Telephone Authority as an eligible telecommunications carrier within its local exchange area.

BE IT FURTHER RESOLVED that the Cheyenne River Sioux Tribe directs the Board of Directors of the Cheyenne River Sioux Tribe Telephone Authority to take all necessary actions consistent with this Resolution.

BE IT FINALLY RESOLVED that the Chairman of the Cheyenne River Sioux Tribe is authorized to implement this Resolution.

CERTIFICATION

I, the undersigned, as Secretary of the Cheyenne River Sioux Tribe, certify that the Tribal Council is composed of fifteen (15) members of whom 11, constituting a quorum, were present at a meeting duly and regularly called, noticed, convened and held this 5th day of November, 1997, Regular Session, and that the foregoing resolution was duly adopted at such meeting by an affirmative vote of 11 for, 0 against, 0 not voting and 4 absent.


Arlene Thompson, Secretary
Cheyenne River Sioux Tribe

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILINGS)
BY TELECOMMUNICATIONS)
COMPANIES FOR DESIGNATION AS)
ELIGIBLE TELECOMMUNICATIONS)
CARRIERS)

AFFIDAVIT OF J.D. WILLIAMS

DOCKET NO. TC 97-_____

I, J.D. WILLIAMS, being first duly sworn, state that the following facts, to the best of my knowledge, information and belief, are true and correct:

1. I am the general manager of the Cheyenne River Sioux Tribe Telephone Authority ("Telephone Authority"), a division of the Cheyenne River Sioux Tribe. I have been the general manager of the Telephone Authority since 1986.

2. The Telephone Authority owns and operates the Dupree and Isabel telephone exchanges, which are located within the exterior boundaries of the Cheyenne River Indian Reservation.

3. The Telephone Authority provides the following services to all its customers:

- A. Voice grade access to the public switched network;
- B. Local exchange service including an amount of local usage free of per-minute charges under a flat-rated local service package;
- C. Dual tone, multi-frequency signaling;
- D. Single party service;
- E. Access to emergency services, including 911, enhanced 911, and free firebar service;
- F. Access to operator service;

G Access to interexchange service;

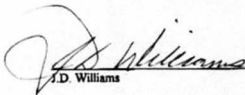
H Access to directory assistance.

4. At this time, the Telephone Authority does not provide toll limitation service in the form of toll blocking to qualifying low-income customers, and the Telephone Authority is not aware of any local exchange carrier in South Dakota that has the capability to provide such service. It is the Telephone Authority's intent to implement such service, including Lifeline and Link Up services, once the technology becomes widely available.

5. The Telephone Authority advertises the availability of its services in media of general distribution through its service area.

AFFIANT FURTHER SAITH NAUGHT.

11-13-97
Date


J.D. Williams

STATE OF SOUTH DAKOTA)
CITY/COUNTY OF DeWey) ss:

SUBSCRIBED AND SWORN to before me this 13th day of Nov, 1997 by
J.D. Williams.


Notary Public

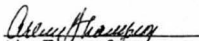
My Commission Expires: 11-04-04

Resolution No. 86-97-CR

- WHEREAS, the Cheyenne River Sioux Tribe of South Dakota is an unincorporated Tribe of Indians having accepted the provisions of the Act of June 18, 1934 (48 Stat. 984); and
- WHEREAS, the Tribe in order to establish its tribal organization, to conserve its tribal property, to develop its common resources, and to promote the general welfare of its people has ordained and established a Constitution and By-laws; and
- WHEREAS, the Tribe has been informed of the need to create and establish an emergency 911 telephone service by members of the Board of Directors of the Teton Ambulance Service (John Bachman and Ashley Arpan); and
- WHEREAS, the Tribe finds it in the best interests of all Reservation residents to create and implement an emergency 911 telephone service; and
- WHEREAS, the Cheyenne River Sioux Tribe finds the best means to create and implement an emergency 911 telephone service is to authorize the Cheyenne River Sioux Tribe Telephone Authority to bill its customers the monthly rate necessary to create, establish and implement the 911 telephone service; now
- THEREFORE BE IT RESOLVED, that the Cheyenne River Sioux Tribe Telephone Authority is hereby authorized to create and implement an emergency 911 telephone service and is duly authorized to bill its customers the monthly rate necessary to create, establish and implement the 911 telephone service.

CERTIFICATION

I, the undersigned, as Secretary of the Cheyenne River Sioux Tribe, certify that the Tribal Council is composed of fifteen (15) members, of whom 11 constituting a quorum, were present at a meeting, duly and regularly called, noticed, convened and held this 3rd day of April, 1997, Regular Session; and that the foregoing resolution was duly adopted at such meeting by an affirmative vote of 11 for, 0 against, 0 not voting and 4 absent.


Arlene Thompson, Secretary
Cheyenne River Sioux Tribe

844.76.443
NEXT

DOCUMENT (S)

DISREGARD

BACKGROUND

ILIC ICES

USE THE
UST KNOW"



10 MINUTES
ILAR MEETING
VEY COUNTY
SIONERS
6, 1997

vey County
et in regular ses-
August 5th, 1997,
steman Bob Bernol
leg to order with
Leo Aberle, John
ckler present. The
minutes was reviewed
ork load on a me-
kler, seconded by
Morton carried.

SSIONAL
ON SERVICES
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onsultation Serv-
e Board to explain
functions of his
to express appre-
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and other related
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Lake, and Eagle
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into Dewey County
of.

ILL AREA
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INTER
nd the Board a let-
received from the
regarding a former
resident now living
Center was asking
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are being given to
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this person was in
is a record of
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payment of the
ated.

ESTIMATE
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told the Board that
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city of the 1996
vey County. They
e from the 1990 fig-
s, 5,772. The letter
ommunicator must

FIRE INSURANCE DISTRIBUTION MONEY

The Auditor told the Board that she had received the Fire Insurance Distribution money which is sent to the county by the state for distribution to the fire departments. The check for \$5,253.35 is split using a formula provided by law. Timber Lake Fire Dept. received \$2,206.40, Eagle Butte received \$2,101.32 and Bealco got \$955.63.

CHEYENNE RIVER TELEPHONE AUTHORITY - 8-11

J.D. Williams, General Manager of Cheyenne River Sioux Telephone Authority, met with the Board to explain the efforts currently in progress regarding 911 service for Dewey County. He told the Board that C.R.S.T. Telephone needed authorization from the Commissioners to collect .75¢ per month from their phone users to fund 911 service. He told the Board that this would not apply to the phone users served by U.S. West and have an 885 phone prefix. The Board made the following resolution to allow collection of 911 tax on a motion by Bob Kadler, seconded by John Lind. Motion carried.

RESOLUTION 08-01-87
WHEREAS, 911 service would be of benefit to parties living in Dewey County; and

WHEREAS, rural addressing is not required as part of the proposal at this time; and

WHEREAS, it is understood that the .75¢ per month of 911 charges will be collected from C.R.S.T. Telephone users and will not include the phone users currently with U.S. West with 885 prefixes.

NOW THEREFORE BE IT RESOLVED That the Dewey County Commissioners authorize Cheyenne River Sioux Telephone Authority to begin collecting .75¢ per month per line for 911 purposes.

Bob Bernol
Chairman
Ronnie Waddell
Leo Aberle
John Lind
Bob Kadler
ATTEST:
Adele R. Enright
Auditor

CATASTROPHIC LEGAL EXPENSE PROGRAM (CLERP)

The Auditor gave the Commissioners a bill received from CLERP for Dewey County's share of legal expenses incurred by other counties with legal claims, including Lincoln County for the Meeker trial and McCook County for the Anderson trial. Dewey County's share of the costs was \$3,426.97. The Board discussed, possibly dropping out of this pool. However, to get out by January of 1998, they would have had to take action by resolution before August 1, 1997, and that deadline had passed. The Board also discussed the possibility of these types of expenses can hit any county at any time, and decided to take no actions at this point.

LIQUOR LICENSE

Hausauer told the Board they could start the project in six to eight weeks. The Auditor asked about financing, such as paying a portion after January 1, 1998, for budget purposes, and Hausauer stated that he felt something could probably be worked out. Ronnie Waddell made a motion to accept the bid for jail repairs and Leo Aberle seconded the motion. Motion carried.

WHITE HORSE ROAD PROJECT P & 259(5)

PCEMS 4895
Highway Supt. Hermes presented contracts to be signed by the Chairman and Auditor that would allow the county to buy the gravel for the White Horse Road project and made some other changes to the FAS guidelines that will lower the cost of that project. Ronnie Waddell made a motion to sign the contracts and Leo Aberle seconded the motion. Motion carried.

RED TOP HILL ROAD REPAIR PROJECT P0020 (00) 111 PCEMS 4470

The Auditor gave the Board copies of the change order for the Red Top Hill Road Project as delivered to her office by Todd Goldsmith of Moberg DOT. Change orders for county signature had been received after the last meeting and had been held for Commissioners action on August 5th. The Board reviewed the forms and declined any action due to significant price differences involved.

SUPPLEMENTAL RETIREMENT PLAN

Highway Supt. Hermes asked the Board when they plan to take action on Lyle Richter's request for the supplemental retirement plan to be offered for county employees. The Auditor stated that she had the resolution form that she had prepared for signature for the July meeting when Richter had met with the Board. The Board had taken no action at that time. This plan allows employees to invest money through the retirement plan at no cost to the county and in addition to the regular retirement. Leo Aberle made a motion to approve the plan and John Lind seconded the motion. Motion carried with all in favor and the following resolution was approved:

RESOLUTION 08-02-87 ADOPTION OF SUPPLEMENTAL RETIREMENT PLAN

(The following resolution adopts the SDRS Supplemental Retirement Plan permitting all employees of Dewey County who are currently eligible for retirement to defer a portion of their salary)

WHEREAS, South Dakota Codified Laws (SDCL) Chapter 3-13, provides that the South Dakota Retirement System Board may establish the SD Deferred Compensation Plan for state government and political subdivision governments; and

WHEREAS, SDCL 3-13 further provides that the SDCL Board may adopt rules and procedures governing the plan and participation by political subdivisions; and

AUG. 14, 1997, EAGLE BUTTE NEWS

WHEREAS, the SDCL Board established the Plan, a "SDRS Supplemental Retirement Plan" and has adopted procedures for political subdivision governments to join; and

WHEREAS, Dewey County wishes to join the Plan for the benefit of its employees, now, THEREFORE BE IT RESOLVED

by the Board of Commissioners Dewey County, that Dewey County hereby joins the Plan and as to its employees the opportunity to participate in the Plan.

BE IT FURTHER RESOLVED that the Dewey County Auditor Enright hereby is authorized and directed to do a survey, and to execute documents in writing, without limitation, a Joint Agreement and a Request for Participation, which the Board determines to be necessary or desirable in order to effect joining the Plan, and to make such other action as may be deemed necessary.

Robert W. Bernol
Chairman
ATTEST:
Adele R. Enright
Auditor

**COMPLAINT REGARDING
COUNTY SALES OF
GRAVEL**
Jim Miller of Bealco, representing Miller Construction, had a complaint with the Highway regarding the county's gravel and also the use of

(CONTINUED ON NEXT PAGE)

10:00 A.M.

SATURDAY, AUGUST 16TH

USED CARS FOR

AS LOW AS \$5!

This Saturday morning, you can have a chance to buy a used car for only \$5.00

This spectacular opportunity will be offered exclusively at

Beadle Ford Inc. & Beadle Chrysler Center

5022 4th Ave. Beadle

At 10:00 a.m. the drastically markdown sale price will be placed windshield of each vehicle. Whoever is sitting in the vehicle at 10 a.m. will have the first chance to buy that vehicle at the newly posted price. If they do not wish to buy that vehicle at the reduced price, it can simply walk away and the vehicle will be available to the first customer who is interested in purchasing it.

PUBLIC NOTICES

BECAUSE THE PEOPLE MUST KNOW

IVED MINUTES IBSONIERS

August 5, 1997
Ipswich County
settled in regular ses-
sion, Ronald J.
Longbrake present.

Chairman Faries called the meeting
to order.

The following monies were on
deposit as of July 31, 1997:

Cash on Hand	\$ 200.00
First Financial Bank,	
Dupree	2,869.14
Money Market,	
Dupree	\$54,890.42
TOTAL	\$57,959.61

ASSIFIEDS

NEOUS FOR SALE

White Nike football shoes
11, Call Anne Robinson
30-30C

table dier, stereo ap-
pliance, furniture, house-
hold items, clothes, furniture
of all styles, lamp, re-
frigerator, and more.
Call 785-2714, or 785-2714

INDOW Air Conditioner,
36, Call 785-2714, or 785-2714

ORDIC Trench Walk

Call 864-865

NOTICES

8 AT American Legion,
4 City Day Saturday
11 a.m. to 1:30 p.m.

170 Blue on Gray Day
11 a.m. to 1:30 p.m.

7 WILL do ironing, mend-
and so forth in my home.
30-30C

WE ARE Moving Our
Office: 785-2714, or 785-2714

18, Saturday, 8 a.m. to
5 p.m. 4 p.m. Admission,
in 12 under Free, must
be with 864-865-1463

35 AND ANKLEWINGS of
who you to check the field
you Lennister and Tam
Holding date: August 30
5 p.m. Tuesday thru Friday,
20 p.m. Saturday 10:00 am
30-30C

TAX Preparation Courses
one 1 p.m. preparation time
and preparing individual re-
ceipts Sept. 8, Corres-
pondence, Intermediate 1-
time positions may be
led graduates upon com-
pletion. The positions
available, quality control
of return. Call 864-865-1463

20-20C, 781-235-041

30-30C

IND and other fam-
ily and accounts, visit
ours, Eagle Butte or West
Dupree. 100C

WEST PO PRICES in
our Family Health Store,
100C

SB in Mortgage will pay

FOR SALE: TWO LOTS in Eagle Butte,
one with better house, one with older
home. Close to downtown. Call Joe Blum
864-865-1463. 30-30C

FOR SALE: TWO bedroom home in Tim-
ber Lake. Large yard, detached garage
864-865-1463. 30-30C

SERVICES

NOTICE: INDIAN TILES American
Legion, Galtburg for City Day Sat-
urday, August 18. Serving 11:00 a.m. to
1:30 p.m. 30C

GET \$2.00 FREE! Run SALE to C
Hire, Box 186, 864-865-1463. 30C

PLANNING A WEDDING? See our
selection of invitations and accessories at
the Eagle Butte News or West River
Produce. Dupree. Fast convenient ser-
vice. 864-865-1463. 30C

STEVE'S SHOE REPAIR, phone 785
2230. For your convenience, shoes and
boots may be left and picked up at Call
785-2714. 200C

FAX SERVICES available at Thompson's
Inc., Eagle Butte. 150C

ALLERGIES GOT YOU DOWN? Space
your Air Filters remove dust, pollen,
and tobacco smoke. \$109.00 Zuber
Refrigeration, Galtburg, 865-705-8268.

FAX RECEIVE OR SEND your Fax (in-
stant) messages at the Potter County
News, Galtburg; Eagle Butte News or
West River Produce, Dupree. Confiden-
tial Service at a reasonable price. 30C

ADVERTISE your Real-estate, real estate,
used vehicle, or other items in every
newspaper in South Dakota! Need help?
Run a "Triple Wanted" ad statewide. Let
David Clemons help you create your message
to every person who reads a South Dako-
ta newspaper. Give him a call today at
the Potter County News. 785-2414.

MEETINGS A MEMORIAL for a loved one?
Call Maebel Hinzman, 864-2726, Eagle
Butte. Also selling for Warrenton Mon-
umental Works, Inc. with Bruce Lyons of
Parrs. 1700C

FOR RENT: Major Appliances, Heating
A/C and Plumbing Sales & Service at
Avalon's Appliances in Fair. 865-787-
2278. 30-30C

PAINTING: INTERIOR - EXTERIOR
Residential and Commercial Painting. 864-865-
1463, Fultion 50C. 11-33C

DIAGNOSIS WRECKER SERVICE: Storage area
and Call 865-785-6450, 864-7450 or
864-1543. Automotive lockout service;
wrecker service. 16978C

The following fees were re-
ported for the month of July 1997:
Register of Deeds \$508.00

MINUTES:

The Auditor read the minutes of
the July, 1997, meeting. Comm.
Bierman moved to approve the min-
utes, seconded by Comm. Kessler,
all voted yes, motion carried.

COURTHOUSE SETTING:

The Commissioners made an
inspection of the cracked walls and
ceilings in the Courthouse. Mike
Burgess reported that Joe Harris
from Denver, Colorado has in-
spected the building and deter-
mined that the center foundation on
the east side had settled due to ex-
cessive ground saturation. He es-
timated it would cost from
\$20,000.00 to \$25,000.00 to fill and
stabilize the building. Calls were
made to Don Ople, War Hawk
Emergency Management and the
Insurance company for possible
coverage. An engineer from Denver
Grouping will inspect the Court-
house the latter part of August to
do a final estimate. The Board decided
that the building will have to be
stabilized and will make a final de-
termination after the engineer has
inspected the building.

911 TELEPHONE

BURCHARGE:

J.D. Williams, General
Manager, CRST Telephone
Authority, met with the Board to
discuss the CRST Resolution au-
thorizing the Telephone Authority to
collect a fee for 911 purposes. Mr.
Williams would like authorization
from both counties involved before
assessing the fee. Comm. Kessler
moved to authorize the collection of
\$.75 per month per access line in
Ziebach County to be set aside in a
separate fund to facilitate a feasi-
bility study for 911 services in
Ziebach County. This was seconded
by Comm. Longbrake, motion
carried. This is in accordance with
SDCL 35-45-1.

GRAVEL REQUEST:

Edie Knight met with the Board
to request gravel on her road. As
the County does not have gravel in
that area, Comm. Longbrake ad-
vised her to check with the Tribe
about getting the gravel and report
back.

DRAINAGE DITCH

INSPECTION:

The Commissioners inspected the
drainage ditch south of Eagle
Butte and determined that the cul-
vert will be extended and covered to
solve the crossing problem.

NOXIOUS WOOD

COMPLAINT:

Cheryl L. de-Bogus, States
Attorney, reported that she had re-
ceived a complaint from Jake
Schauer about an uncontrolled
cattle Thistle problem on land be-
longing to Criss Kurbier, Maurice
Lemka, Extension Agent, and Dean
Johnson inspected the area and re-
ported back to the Board. The
problem is large and uncontrolled.
The Weed Board will contact the
landowner about control of the nox-
ious weeds.

EXTENSION SECRETARY

RESIGNATION:

The Board received a letter of

Federal or State Grant Fund -

Public Works - Hwy., Roads &
Bridges \$32,888.00

This was seconded by Comm.
Longbrake, all voted yes, motion
carried. This budget and supple-
ment was adopted without further
notice or hearing pursuant to SDCL
7-21-32.1.

THUNDER BUTTE ROAD

WORK ORDER:

Comm. Bierman moved to ap-
prove the Work Order with NJS
Engineering for the design services
on the North Thunder Butte Road
project, seconded by Comm.
Johnson, all voted yes, motion car-
ried.

CLAIMS AUDITED:

The following claims were su-
dited and ordered paid:

GENERAL FUND:

Custodian, Salary, \$561.80;
Director of Equalization, Salary,
1,491.05; Treasurer, Salaries,
1,830.31; Register of Deeds,
Salary, 1,148.27; Auditor, Salaries,
1,743.55; Sheriff, Salary, 1,759.00;
V.S.O. Salary, 424.81; States
Attorney, Salaries, 1,909.27;
Commissioners, Salaries, 781.04;
Hay, Dept., Salaries, 7,563.85;
Extension Secretary, Salary,
781.87; CHW Secretary, Salary,
319.51;

AFLAC, Cancer Insurance,
220.54; Blue Cross Blue Shield,
Health Insurance, 6,751.88;
Bankers United Assurance Co.,
Cancer Insurance, 364.74; Internal
Revenue, Withholding, S.S. &
Medicare, \$,944.36; SD Retirement
System, Retirement, 2,482.82; AQ
Communications, 4-H Material,
71.86;

Auto Center, Repairs, 447.82;
Burgess Lumber, Supplies, 11.92;
Butler Machinery Co., Repairs,
404.32; Caterpillar Financial
Services, 4th Pymt. on 1400,
12,882.25; CRST Telephone
Authority, Phone Bills, \$33.57;
Delta Business Center, Supplies,
98.86;

Dewey County Extension, 4-H
Material, 35.00; Dupree Oil Co.,
Gas & Supplies, 1,029.36; Devle
Incorporated, Motor Fuel, 155.50;
Dust-Tax, Supplies, 40.00; Dupree
Water Dept., Motor & Dumpsters,
150.31; Kristy Eubank, Mileage &
Per diem, 29.56;

Cnt Fairie, Mileage, \$4.00;
Frontier Glass Inc., Windshields,
411.41; Family Health Center, Blood
Draw, \$6.00; Flagg Over America,
Flags, 153.00; Farmers Union Oil
Co., Air Conditioner & Supplies,
825.94; Gateway 2000, Computer
Upgrades, 218.00;

Godfrey Brake Service,
Repairs, 150.81; Great Western
Tires, 1,277.78; Grothe Hides,
Mileage & Per diem, 118.86; Virginia
Herald, Mileage & Per diem, 229.58;
Isabel County Hospital, Blood
Draw, 45.00; Dean Johnson,
Mileage, 17.52;

Janner Equipment Co.,
Repairs, 51.31; Robert Kessler,

AUG. 14, 1997, WEST RIVER PROG

Mileage, 131.04; Lyden,
Supplies, 164.85; LUD
Co., Long Distance
182.17; D.F. Longbrake
10.56; Madrick Lemka,
Per diem, 365.58;

Lawson Products I
Supplies, 227.85; More
Electric, Electricity,
State Radio Comm-
Monsiech Photo, Photo
19.75; National Lab
Cleaning Supplies,
Furniture Postage, 16
R.E. Huffman, Co
Supplies, 487.82; SDAQ
trophie Legal Expenses,
State Radio Comm-
Telephone Billing, 1,800.00
Backhoe, Install Culver
Weir Parts, Grader
1,470.00; West Pub-
Co., RM-USCA, \$8.00;

West River Inte
Repairs, 295.00; A
Progress, Advertisement
Ronald Bierman, Mileage
State Treasurer, Car
120.00; State Treasur
County, Conversion R
280.00; SD Dept. of
Blood Alcohol, 36.00;

WIC FUND:

\$1128.11; Blue Cross &
Health Insurance, \$17
Revenue, Withholding
Medicare, 36.84;

SECONDARY ROAD

Dupree Oil Co
\$3,896.84

FENCING AND REPAIR

Board to inquire about the
section line. The Board
Mr. Freeman that he co-
ference on the section li-
understanding that the
to be moved if it is to
be constructed then
asked about a larger or
crossing on his road.
Supt. will be asked to
the use of grant fund
through the Governor's
WATER FOUNT

Charles Brooks
inquired about repair
fountains on the first
Courthouse which no to
Comm. Bierman moved
County to have the
water fountain for ap-
\$840.00, seconded
Johnson, all voted yes,
ried.

ADJOURNMENT

As there was no
ness before the Board
Business was held in
seconded by Comm. Long
being adjourned.

Clifton Faries
Chairman

ATTEST:

Cindy Longbrake
Auditor
Present in the West River
14, 1997

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FAX Received NOV 13 1997

RECEIVED

NOV 14 1997

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE FILINGS)
BY TELECOMMUNICATIONS)
COMPANIES FOR DESIGNATION AS)
ELIGIBLE TELECOMMUNICATIONS))
CARRIERS)

MOTION FOR ADMINISTRATIVE
NOTICE OF RELATED
PROCEEDINGS BEFORE THE
PUBLIC UTILITIES COMMISSION OF
SOUTH DAKOTA

DOCKET NO. TC 97-____

The Cheyenne River Sioux Tribe Telephone Authority ("Telephone Authority") files this motion for administrative notice of proceedings before the Public Utilities Commission of South Dakota ("Commission") which are related to the instant proceeding regarding designation of eligible telecommunications carriers ("ETC") in South Dakota.

The Telephone Authority is a party to In the Matter of the Sale of Certain Telephone Exchanges by U.S. West Communications, Inc. to Certain Telecommunications Companies in South Dakota, No. TC94-122 ("Sales Proceedings"). In the Sales Proceedings, the Telephone Authority produced substantial evidence related to the type and quality of telecommunications service it provides its customers in Dewey and Ziebach counties. Rather than duplicating evidence that is already before the Commission in the Sales Proceedings, the Telephone Authority respectfully requests that the Commission take administrative notice of those proceedings as evidence of the Telephone Authority's qualifications for ETC designation.

0144:67.48
Dated Nov 13, 1997

Respectfully submitted,

Alice E. Walker

Scott B. McElroy
Alice E. Walker
Greene, Meyer & McElroy, P.C.
1007 Pearl Street, No. 220
Boulder, Colorado 80302
(303) 442-2021

*Attorneys for the Cheyenne River Sioux
Tribe Telephone Authority*

81444
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67
94
FAX Received NOV 13 1997

RECEIVED

NOV 14 1997

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE FILINGS)
BY TELECOMMUNICATIONS)
COMPANIES FOR DESIGNATION AS)
ELIGIBLE TELECOMMUNICATIONS)
CARRIERS)

CERTIFICATE OF MAILING
AND FACSIMILE TRANSMISSION

DOCKET NO. TC97-____

I hereby certify that I have forwarded a true and correct copy of the foregoing
STATEMENT/ APPLICATION OF THE CHEYENNE RIVER SIOUX TRIBE TELEPHONE
AUTHORITY REGARDING DESIGNATION AS ELIGIBLE TELECOMMUNICATIONS
CARRIER, and MOTION FOR ADMINISTRATIVE NOTICE OF RELATED PROCEEDINGS
BEFORE THE PUBLIC UTILITIES COMMISSION OF SOUTH DAKOTA via facsimile and
by U.S. Mail, first-class postage prepaid thereon, on this 13 day of November, 1997,
addressed to the following:

William Bullard, Executive Director
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

(Fax Number: 605/773-3809)

Camron Hoseck, Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

(Fax Number: 605/773-3809)

Mauda Nelson

01444.67.50

RECEIVED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

NOV 14 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE FILINGS)
BY TELECOMMUNICATIONS)
COMPANIES FOR DESIGNATION AS)
ELIGIBLE TELECOMMUNICATIONS)
CARRIERS)

MOTION FOR ADMINISTRATIVE
NOTICE OF RELATED
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Dated Nov. 13, 1997

Respectfully submitted,

Alice E. Walker

Scott B. McElroy

Alice E. Walker

Greene, Meyer & McElroy, P.C.

1007 Pearl Street, No. 220

Boulder, Colorado 80302

(303) 442-2021

*Attorneys for the Cheyenne River Sioux
Tribe Telephone Authority*



Mr. Cameron Hoseck
Staff Attorney
State of South Dakota
Public Utilities Commission
Pierre, South Dakota 57501-5070

TC 97-184
C.R.S.T Telephone Authority

RECEIVED

DEC 08 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

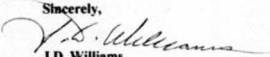
Dear Mr. Hoseck:

This letter is intended to clarify two points contained with the affidavit dated November 13, 1997 submitted to the Public Utilities Commission in Docket TC97-184.

C.R.S.T. Telephone Authority will provide Lifeline and Linkup services on January 1, 1997 pursuant to the commission order dated November 18, 1997. Our company is able available at this time to be a provider of Lifeline and Linkup services.

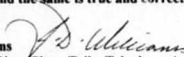
In addition, I should clarify that C.R.S.T. Telephone Authority is capable of providing toll blocking, the company however cannot currently provide toll control due to technology limitations. The company is requesting that the Commission grant a waiver of only the requirement to provide " toll control " service.

Sincerely,


J.D. Williams
General Manager

AFFIDAVIT

I, J.D. Williams, being duly sworn, state that i am the general manager of the Cheyenne River Sioux Tribe Telephone Authority, that i have read the above document and the same is true and correct to the best of my knowledge, information and belief.

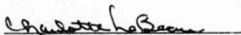
J.D. Williams 
Cheyenne River Sioux Tribe Telephone Authority

0144.67.53
page two
December 2, 1997
Mr. Cameron Hoseck

STATE OF SOUTH DAKOTA

CITY/COUNTY OF DEWEY

SUBSCRIBED AND SWORN to before me this 2nd day of December , 1997 by



notary public

My Commission Expires: 11-04-04

BRUCE R. GREENE
ELIZABETH MEYER
SCOTT B. McELROY
M. CATHERINE CONDON
ALICE E. WALKER
TODD S. BURCH RATES

December 5, 1997

RECEIVED

DEC 09 1997

OF COUNSEL
PHOEBE ANNE GREYSON

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

FAX Received DEC 08 1997

VIA FAX AND OVERNIGHT DELIVERY

Facsimile Number (605) 773-3809

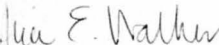
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

Re: In Re the Cheyenne River Sioux Tribe Telephone Authority

Dear Commissioners:

By this letter, I am filing via facsimile the Late Filed Exhibit to Statement/Application of the Cheyenne River Sioux Tribe Telephone Authority Regarding Designation as Eligible Telecommunications Carrier. The signature on the Affidavit is faxed, and I will send the original signature page on Tuesday, for delivery Wednesday to substitute for the faxed signature. By separate delivery, I am forwarding the original and eleven copies of each of the documents for filing. Please file stamp the extra copy and return it in the self-addressed, stamped envelope enclosed. Thank you for your attention to this matter.

Sincerely,



Alice E. Walker
AEW/dav

cc: J.D. Williams
William Bullard
Cameron Hoseck

enc. Late Filed Exhibit to Statement/Application of the Cheyenne River Sioux Tribe Telephone Authority Regarding Designation as Eligible Telecommunications Carrier, (11 copies); self-addressed, stamped envelope

0144:67:55
FAX Received DEC 08 1997

RECEIVED

DEC 09 1997

BEFORE THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

IN THE MATTER OF THE FILINGS)
BY TELECOMMUNICATIONS)
COMPANIES FOR DESIGNATION AS)
ELIGIBLE TELECOMMUNICATIONS)
CARRIERS)

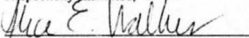
LATE FILED EXHIBIT TO
STATEMENT/APPLICATION OF THE
CHEYENNE RIVER SIOUX TRIBE
TELEPHONE AUTHORITY
REGARDING DESIGNATION AS
ELIGIBLE TELECOMMUNICATIONS
CARRIER

DOCKET NO. TC 97-184

The Cheyenne River Sioux Tribe Telephone Authority ("Telephone Authority") files this late exhibit describing all of the telephone exchanges for which the Telephone Authority currently provides telecommunications services: Isabel, No. 466; Dupree, No. 365; South Dupree, No. 538; La Plant, No. 733; and Eagle Butte, No. 964. This exhibit supplements the Statement/Application of the Cheyenne River Sioux Tribe Telephone Authority Regarding Designation as Eligible Telecommunications Carrier, filed November 14, 1997. By this late filed exhibit, the Telephone Authority requests that the Commission grant it eligible telecommunications carrier status for all of the telephone exchanges the Telephone Authority currently serves.

Dated 12-8-97

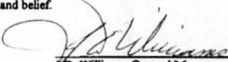
Respectfully submitted,


Scott B. McElroy
Alice E. Walker
Greene, Meyer & McElroy, P.C.
1007 Pearl Street, No. 220
Boulder, Colorado 80302
(303) 442-2021

*Attorneys for the Cheyenne River Sioux
Tribe Telephone Authority*

AFFIDAVIT

I, J.D. WILLIAMS, being duly sworn, state that I am the general manager of the Cheyenne River Sioux Tribe Telephone Authority, that I have read the Late Filed Exhibit to Amended Statement/Application of the Cheyenne River Sioux Tribe Telephone Authority regarding Designation as an Eligible Telecommunications Carrier, and the same is true and correct to the best of my knowledge, information and belief.

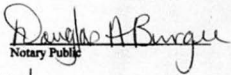

J.D. Williams, General Manager
Cheyenne River Sioux Tribe Telephone
Authority

STATE OF SOUTH DAKOTA

CITY/COUNTY OF

Dewey } ss:

SUBSCRIBED AND SWORN to before me this 5th day of December 1997 by
J.D. Williams.


Notary Public

My Commission Expires:

2/1/2004

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE FILINGS)
BY TELECOMMUNICATIONS)
COMPANIES FOR DESIGNATION AS)
ELIGIBLE TELECOMMUNICATIONS)
CARRIERS)

CERTIFICATE OF MAILING
AND FACSIMILE TRANSMISSION

DOCKET NO. TC97-184

I hereby certify that I have forwarded a true and correct copy of the foregoing LATE
FILED EXHIBIT TO STATEMENT/ APPLICATION OF THE CHEYENNE RIVER SIOUX
TRIBE TELEPHONE AUTHORITY REGARDING DESIGNATION AS ELIGIBLE
TELECOMMUNICATIONS CARRIER via facsimile and by U.S. Mail, first-class postage
prepaid thereon, on this 2 day of December, 1997, addressed to the following:

William Bullard, Executive Director
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

(Fax Number: 605/773-3809)

Cameron Hoseck, Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501

(Fax Number: 605/773-3809)

Marsha Huber

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GREENE MEYER & McLEOD

RECEIVED

DEC 10 1997

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

PHOEBE ANNE GREYSON

BRUCE R. GREENE
ELIZABETH MEYER
SCOTT B. McLEOD
M. CATHERINE CONDON
ALICE E. WALKER
TOBI S. BURCH-RATES

December 9, 1997

William Bullard, Executive Director
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

VIA FEDERAL EXPRESS

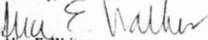
Re: In the Matter of the Filings by Telecommunications Companies for Designation as Eligible Telecommunications Carriers, No. TC97-184.

Dear Mr. Bullard:

Enclosed please find the original affidavit signature page for JD Williams. Please substitute the original affidavit signature for the facsimile one included in the *Late Filed Exhibit to Statement/Application of the Cheyenne River Sioux Tribe Telephone Authority Regarding Designation as an Eligible Telecommunications Carrier*.

Thank you for your attention to this matter. Please do not hesitate to contact me if you have any questions or comments.

Sincerely,



Alice E. Walker
AEW/dav

enc: original affidavit page

cc: Cameron Hoseck

30. 10. 4418

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

IN THE MATTER OF THE FILING BY)	FINDINGS OF FACT,
CHEYENNE RIVER SIOUX TRIBE TELEPHONE)	CONCLUSIONS OF LAW,
AUTHORITY FOR DESIGNATION AS AN)	ORDER AND NOTICE OF
ELIGIBLE TELECOMMUNICATIONS CARRIER)	ENTRY OF ORDER
)	TC97-184

On November 13, 1997, the Public Utilities Commission (Commission) received a request for designation as an eligible telecommunications carrier (ETC) from Cheyenne River Sioux Tribe Telephone Authority (CRSTTA). CRSTTA requested designation as an eligible telecommunications carrier within the local exchange areas that constitute its service area.

The Commission electronically transmitted notice of the filing and the intervention deadline to interested individuals and entities. No person or entity filed to intervene. By order dated November 21, 1997, the Commission set the hearing for this matter for 1:30 p.m. on December 2, 1997, in Room 464, State Capitol, Pierre, South Dakota.

The hearing was held as scheduled. At its December 11, 1997, meeting, the Commission granted ETC designation to CRSTTA and designated its study area as its service area.

Based on the evidence of record, the Commission enters the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

I

On November 13, 1997, the Commission received a request for designation as an ETC from CRSTTA. CRSTTA requested designation as an ETC within the local exchange areas that constitute its service area. CRSTTA serves the following exchanges: Dupree (365); Isabel (466); South Dupree (538); La Plant (733); and Eagle Butte (964). Exhibit 1; late-filed amended application.

II

Pursuant to 47 U.S.C. § 214(e)(2), the Commission is required to designate a common carrier that meets the requirements of section 214(e)(1) as an ETC for a service area designated by the Commission.

III

Pursuant to 47 U.S.C. § 214(e)(1), a common carrier that is designated as an ETC is eligible to receive universal service support and shall, throughout its service area, offer the services that are supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services. The carrier must also advertise the availability of such services and the rates for the services using media of general distribution.

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IV

The Federal Communications Commission (FCC) has designated the following services or functionalities as those supported by federal universal service support mechanisms: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equal; (4) single party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers. 47 C.F.R. § 54.101(a).

V

As part of its obligations as an ETC, an ETC is required to make available Lifeline and Link Up services to qualifying low-income consumers. 47 C.F.R. § 54.405; 47 C.F.R. § 54.411.

VI

CRSTTA offers voice grade access to the public switched network to all consumers throughout its service area. Exhibit 1.

VII

CRSTTA offers local exchange service including an amount of local usage free of per minute charges to all consumers throughout its service area. Id.

VIII

CRSTTA offers dual tone multi-frequency signaling to all consumers throughout its service area. Id.

IX

CRSTTA offers single party service to all consumers throughout its service area. Id.

X

CRSTTA offers access to emergency services to all consumers throughout its service area. Id.

XI

CRSTTA offers access to operator services to all consumers throughout its service area. Id.

XII

CRSTTA offers access to interexchange services to all consumers throughout its service area. Id.

XIII

CRSTTA offers access to directory assistance to all consumers throughout its service area. Id.

XIV

One of the services required to be provided by an ETC to qualifying low-income consumers is toll limitation. 47 C.F.R. § 54.101(a)(9). Toll limitation consists of both toll blocking and toll control. 47 C.F.R. § 54.400(d). Toll control is a service that allows consumers to specify a certain amount of toll usage that may be incurred per month or per billing cycle. 47 C.F.R. § 54.400(c). Toll blocking is a service that lets consumers elect not to allow the completion of outgoing toll calls. 47 C.F.R. § 54.400(b).

XV

CRSTTA offers toll blocking to all consumers throughout its service area. Exhibit 1; late-filed affidavit.

XVI

CRSTTA does not currently offer toll control. Id. CRSTTA cannot provide toll control due to technology limitations but it will provide the service once the technology becomes available. Id.

XVII

CRSTTA requested a waiver from the requirement to provide toll control service. Id.

XVIII

With respect to the obligation to advertise the availability of services supported by the federal universal service support mechanism and the charges for those services using media of general distribution, CRSTTA stated that it advertises the availability of its local exchange services in media of general distribution throughout its service area. Exhibit 1.

XIX

CRSTTA will offer the Lifeline and Link Up service discounts in all of its service area beginning January 1, 1998, pursuant to the Commission order dated November 18, 1997, in Docket TC97-150, In the Matter of the Investigation into the Lifeline and Link Up Programs. Id.

XX

The Commission finds that CRSTTA currently provides and will continue to provide the following services or functionalities throughout its service area: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling; (4) single-party service; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll blocking for qualifying low-income consumers.

XXI

The Commission finds that pursuant to 47 C.F.R. § 54.101(c) it will grant CRSTTA a waiver of the requirement to offer toll control services until December 31, 1998. The Commission finds that exceptional circumstances prevent CRSTTA from providing toll control at this time due to technology limitations.

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XXII

The Commission finds that CRSTTA intends to provide Lifeline and Link Up programs to qualifying customers throughout its service area consistent with the Commission order dated November 18, 1997.

XXIII

The Commission finds that CRSTTA shall advertise the availability of the services supported by the federal universal service support mechanism and the charges therefor throughout its service area using media of general distribution once each year. The Commission further finds that if the rate for any of the services supported by the federal universal service support mechanism changes, the new rate must be advertised using media of general distribution.

XXIV

Pursuant to 47 U.S.C. § 214(e)(5), the Commission designates CRSTTA's current study area as its service area.

CONCLUSIONS OF LAW

I

The Commission has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-31, and 47 U.S.C. § 214.

II

Pursuant to 47 U.S.C. § 214(e)(2), the Commission is required to designate a common carrier that meets the requirements of section 214(e)(1) as an ETC for a service area designated by the Commission.

III

Pursuant to 47 U.S.C. § 214(e)(1), a common carrier that is designated as an ETC is eligible to receive universal service support and shall, throughout its service area, offer the services that are supported by federal universal service support mechanisms either using its own facilities or a combination of its own facilities and resale of another carrier's services. The carrier must also advertise the availability of such services and the rates for the services using media of general distribution.

IV

The FCC has designated the following services or functionalities as those supported by federal universal service support mechanisms: (1) voice grade access to the public switched network; (2) local usage; (3) dual tone multi-frequency signaling or its functional equal; (4) single party service or its functional equivalent; (5) access to emergency services; (6) access to operator services; (7) access to interexchange service; (8) access to directory assistance; and (9) toll limitation for qualifying low-income consumers. 47 C.F.R. § 54.101(a).

V

As part of its obligations as an ETC, an ETC is required to make available Lifeline and Link Up services to qualifying low-income consumers. 47 C.F.R. § 54.405; 47 C.F.R. § 54.411.

81446-26
VI

CRSTTA has met the requirements of 47 C.F.R. § 54.101(a) with the exception of the ability to offer toll control. Pursuant to 47 C.F.R. § 54.101(c), the Commission concludes that CRSTTA has demonstrated exceptional circumstances that justify granting it a waiver of the requirement to offer toll control until December 31, 1998.

VII

CRSTTA shall provide Lifeline and Link Up programs to qualifying customers throughout its service area consistent with state and federal rules and orders.

VIII

CRSTTA shall advertise the availability of the services supported by the federal universal service support mechanism and the charges therefor using media of general distribution once each year. If the rate for any of the services supported by the federal universal service support mechanism changes, the new rate shall be advertised using media of general distribution.

IX

Pursuant to 47 U.S.C. § 214(e)(5), the Commission designates CRSTTA's current study area as its service area.

X

The Commission designates CRSTTA as an eligible telecommunications carrier for its service area.

It is therefore

ORDERED, that CRSTTA's current study area is designated as its service area; and it is

FURTHER ORDERED, that CRSTTA shall be granted a waiver of the requirement to offer toll control services until December 31, 1998; and it is

FURTHER ORDERED, that CRSTTA shall follow the advertising requirements as listed above; and it is

FURTHER ORDERED, that CRSTTA is designated as an eligible telecommunications carrier for its service area.

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that this Order was duly entered on the 17th day of December, 1997. Pursuant to SDCL 1-26-32, this Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties.

46. 36. 44. 118

Dated at Pierre, South Dakota, this 17th day of December, 1997.

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

Melanie Kaelo

Date

12/18/97

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner

01444-5-97

TC97-184

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

**LIFELINE AND LINK UP PLAN
OF CHEYENNE RIVER SIOUX TRIBE TELEPHONE AUTHORITY**

The *C.R.S.T. Telephone Authority* submits this plan pursuant to 47 CFR § 54.401(d). *C.R.S.T. Telephone Authority* has been designated as an eligible telecommunications carrier by the South Dakota Public Utilities Commission ("SDPUC") and, as such, must make Lifeline and Link Up service available to qualifying low-income consumers as set forth in the Commission's *Final Order and Decision; Notice of Entry of Decision* dated November 18, 1997, issued in Docket TC97-150 (In the Matter of the Investigation into the Lifeline and Link Up Programs), which is attached as Exhibit A, and consistent with the criteria established under 47 CFR §§ 54.400 to 54.417, inclusive.

A. General

1. The Lifeline and Link Up programs assist qualified low-income consumers by providing for reduced monthly charges and reduced connection charges for local telephone service. The assistance applies to a single telephone line at a qualified consumer's principal place of residence.
2. A qualified low-income consumer is a telephone subscriber who participates in at least one of the following public assistance programs:
 - a. Medicaid
 - b. Food Stamps
 - c. Supplemental Security Income (SSI)
 - d. Federal Public Housing Assistance
 - e. Low-Income Home Energy Assistance Program (LHEAP)
3. A qualified low-income consumer is eligible to receive either or both Lifeline and Link Up assistance.
4. *C.R.S.T. Telephone Authority* will advertise the availability of Lifeline and Link Up services and the charges therefore using media of general distribution and in accord with any rules that may be developed by the SDPUC for application to eligible telecommunications carriers.
5. In addition, *C.R.S.T. Telephone Authority*, as required by the *Final Order and Decision; Notice of Entry of Decision* of the SDPUC (Exhibit A), will indicate in its annual report to the SDPUC the number of subscribers within its service area receiving Lifeline and/or Link Up assistance. In addition, this information will be provided to the Universal Service Administrative Company ("USAC").
6. Information as to the number of consumers qualifying for Lifeline and/or Link Up assistance cannot currently be provided by *C.R.S.T. Telephone Authority* because it has no access to the government information necessary to determine how many of its telephone subscribers are participating in the above referenced public assistance

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programs. Without this information, *C.R.S.T. Telephone Authority* cannot provide, at this time, even a reasonable estimate of the number of its subscribers who, after January 1, 1998, will be receiving Lifeline and/or Link Up service. Information as to the number of its low-income subscribers qualifying for Lifeline and/or Link Up can be provided after applications for Lifeline and Link Up assistance have been received by *C.R.S.T. Telephone Authority*.

7. In accord with the SDPUC's *Final Order and Decision; Notice of Entry of Decision*, *C.R.S.T. Telephone Authority* will make application forms available to all of its existing residential customers, to all new customers when they apply for residential local telephone service, and to other persons or entities upon their request.

B. Lifeline

1. Lifeline service means a retail local service offering for which qualified low-income consumers pay reduced charges.

2. Lifeline service includes voice grade access to the public switched network, local usage, dual tone multi-frequency signaling or its functional equivalent, single-party service or its functional equivalent, access to emergency services, access to operator services, access to interexchange service, access to directory assistance, and toll limitation.

3. Qualified low-income subscribers are required to submit an application form in order to receive Lifeline service. In applying for Lifeline assistance, the subscriber must certify under penalty of perjury that they are currently participating in at least one of the qualifying public assistance programs listed in Section A.2, above. In addition, the subscriber must agree to notify *C.R.S.T. Telephone Authority* when they cease participating in the qualifying public assistance program(s).

4. The total monthly Lifeline credit available to qualified consumers is \$5.25. *C.R.S.T. Telephone Authority* shall provide the credit to qualified consumers by applying the federal baseline support amount of \$3.50 to waive the consumer's federal End-User Common Line charge and applying the additional authorized federal support amount of \$1.75 as a credit to the consumer's intrastate local service rate. The federal baseline support amount and additional support available, totaling \$5.25, shall reduce *C.R.S.T. Telephone Authority's* lowest tariffed (or otherwise generally available) residential rate for the services listed above in Section B.3. Per the attached SDPUC *Final Order and Decision; Notice of Entry of Decision*, the SDPUC has authorized intrastate rate reductions for eligible telecommunications carriers making the additional federal support amount of \$1.75 available. The SDPUC did not establish a state Lifeline program to fund any further rate reductions. (Exhibit A, Findings of Fact VII and VIII; and Conclusions of Law II and III).

5. *C.R.S.T. Telephone Authority* will not disconnect subscribers from their Lifeline service for non-payment of toll charges unless the SDPUC, pursuant to 47 CFR § 54.401(b)(1), has granted the company a waiver from the non-disconnect requirement.

6. Except to the extent that *C.R.S.T. Telephone Authority* has obtained a waiver from the SDPUC pursuant to 47 CFR § 54.101(c), the company shall offer toll limitation to all qualifying low-income consumers when they subscribe to Lifeline service. If the subscriber elects to receive toll limitation, that service shall become part of that subscriber's Lifeline service.

7. *C.R.S.T. Telephone Authority* will not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll blocking on their telephone line. However, one month's local service charges may be required as an advance payment.

C. Link Up

1. Link Up means:

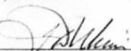
(a) A reduction in the customary charge for commencing telecommunications service for a single telecommunications connection at a consumer's principal place of residence. The reductions shall be 50 percent of the customary charge or \$30.00, whichever is less; and

(b) A deferred schedule for payment of the charges assessed for commencing service, for which the consumer does not pay interest. The interest charges not assessed to the consumer shall be for connection charges of up to \$200.00 that are deferred to a period not to exceed one year.

2. Charges assessed for commencing service include any charges that are customarily assessed for connecting subscribers to the network. These charges do not include any permissible security deposit requirements.

3. The Link Up program shall allow a consumer to receive the benefit of the Link Up program for a second or subsequent time only for a principal place of residence with an address different from the residence address at which the Link Up assistance was provided previously.

Cheyenne River Sioux Tribe Telephone Authority
P.O. Box 810, 100 Main Street, Eagle Butte, SD 57625
(605)964-2600

By 
J.D. Williams, General Manager

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

IN THE MATTER OF THE INVESTIGATION)	FINAL ORDER AND
INTO THE LIFELINE AND LINK UP)	DECISION; NOTICE OF
PROGRAMS)	ENTRY OF DECISION
)	TC97-150

At its August 18, 1997, regularly scheduled meeting, the Public Utilities Commission (Commission) voted to open a docket concerning the Federal Communications Commission's (FCC's) Report and Order on Universal Service regarding the Lifeline and Link Up programs. In its Report and Order, the FCC decided that it would provide for additional federal support in the amount of \$1.75, above the current \$3.50 level. However, in order for a state's Lifeline consumers to receive the additional \$1.75 in federal support, the state commission must approve that reduction in the portion of the intrastate rate paid by the end user. 47 C.F.R. § 54.403(a). Additional federal support may also be received in an amount equal to one-half of any support generated from the intrastate jurisdiction, up to a maximum of \$7.00 in federal support. 47 C.F.R. § 54.403(a). A state commission must file or require the carrier to file information with the administrator of the federal universal service fund demonstrating that the carrier's Lifeline plan meets the criteria set forth in 47 C.F.R. § 54.401.

By order dated August 28, 1997, the Commission allowed interested persons and entities to submit written comments concerning how the Commission should implement the FCC's rules on the Lifeline and Link Up programs. In their written comments, interested persons and entities commented on the following questions:

1. Whether the Commission should approve intrastate rate reductions to allow consumers eligible for Lifeline support to receive the additional \$1.75 in federal support?
2. Whether the Commission should set up a state Lifeline Program to fund further reductions in the intrastate rate paid by the end user?
3. Whether the Commission should modify the existing Lifeline or Link Up Programs?
4. Shall the Commission file or require the carrier to file information with the administrator of the federal universal service fund demonstrating that the carrier's Lifeline plan meets the criteria set forth in 47 C.F.R. § 54.401(d)?

By order dated October 16, 1997, the Commission set public hearings to receive public comment on the questions listed above. The hearings were held at the following times and places:

<u>RAPID CITY:</u>	Monday, October 27, 1997, 1:00 p.m., Canyon Lake Senior Citizens Center, 2900 Canyon Lake Drive, Rapid City, SD
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PIERRE:

Tuesday, October 28, 1997, 1:30 p.m., State Capitol Building, Room 412, 500 East Capitol Avenue, Pierre, SD

SIoux FALLS:

Wednesday, October 29, 1997, 9:00 a.m., Center for Active Generations, 2300 West 46th, Sioux Falls, SD

At its November 7, 1997, meeting, the Commission ruled as follows: On the first issue, the Commission authorized intrastate rate reductions to allow eligible consumers to receive the additional \$1.75 in federal support. With respect to the second issue, the Commission decided to not set up a state Lifeline program to fund further reductions at this time. On the third issue, the Commission eliminated the existing TAP program that requires U S WEST and carriers that have purchased U S WEST exchanges to fund a \$3.50 reduction of local rates to low income customers age 60 and over. The Commission further ruled that the South Dakota Link Up program follow the FCC rules. In addition, the Commission ordered that staff, in consultation with the carriers, develop a standard form for self-certification; that these forms be sent to all of their customers prior to January 1, 1998, and thereafter, to all new customers; and that the carriers make the forms available to any person or entity upon request. On the fourth issue, the Commission ruled that the carrier be required to file with the FCC the information demonstrating that the carrier's plan meets the applicable FCC criteria and that the carrier send an informational copy to the Commission. Further, that the carriers include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

Based on the written comments and evidence and testimony received at the hearings, the Commission makes the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

I

The current state Lifeline program is referred to as the Telephone Assistance Plan (TAP). The current state Link Up program is referred to as the Link Up America program. The Commission implemented these programs in the U S WEST exchanges pursuant to its Decision and Order dated February 17, 1988, issued in Docket F-3703, In the Matter of the Investigation into Implementation of a Telephone Assistance Plan for South Dakota Customers. Exhibit 1 at page 1. Subsequent buyers of U S WEST exchanges were required to also offer the TAP and Link Up America programs. Id. at pages 1-2.

II

The amount of TAP assistance is \$7.00, \$3.50 of which is federally funded, with the remaining \$3.50 funded by the local telecommunications carrier. Id. at page 3. Although U S WEST was originally allowed to charge a surcharge to fund the program, U S WEST subsequently gave up that right in Docket F-3647-8, In the Matter of the Public Utilities Commission Investigation into the Effects of the 1986 Tax Reform Act on South Dakota Utilities. Exhibit 5. In order to receive the TAP assistance, a member of the household

must be 60 years of age or older and participate in either the food stamp or the low-income energy assistance program. Exhibit 1 at page 2.

III

The Link Up America program provides assistance in an amount equal to one-half of the qualifying subscriber's telephone service connection charges up to a maximum of \$30.00. *Id.* at page 3. In order to receive Link Up assistance, a customer must be receiving either food stamps or low-income energy assistance, must not presently have local telephone service and must not have been provided telephone service at his or her residence within the previous three months, and must not be a dependent for federal income tax purposes (dependency criteria does not apply to those 60 years of age or older). *Id.* The Link Up program is funded entirely out of federal funds. *Id.*

IV

The FCC revised the current Lifeline and Link Up programs in CC Docket No. 96-45, In the Matter of Federal-State Joint Board on Universal Service, adopted May 7, 1997. Beginning January 1, 1998, the FCC found that the federal baseline Lifeline support will be \$3.50 per qualifying low-income consumer with an additional \$1.75 in federal support if the state commission approves a corresponding reduction in intrastate local rates. 47 C.F.R. § 54.403(a). Additional federal Lifeline support in an amount equal to one-half the amount of any state Lifeline support (not to exceed \$7.00) is also available. *Id.*

V

The FCC further found that the federal support for Link Up will continue to be a reduction in the telecommunications carrier's service connection charges equal to one half of the carrier's customer connection charge or \$30.00, whichever is less. 47 C.F.R. § 54.413(b).

VI

Pursuant to the FCC's rules, if there is no state Lifeline or Link Up program, a consumer is eligible for support if the consumer participates in one of the following programs: Medicaid; food stamps; Supplemental Security Income; federal public housing assistance; or the Low-Income Home Energy Assistance Program. 47 C.F.R. §§ 54.409(b) and 54.415(b). In addition, if there is no state Lifeline or Link Up program, a customer must certify under penalty of perjury that the customer is receiving benefits from one of the programs listed above and agrees to notify the carrier if the customer ceases to participate in such program or programs. *Id.*

VII

The first issue is whether the Commission should approve intrastate rate reductions to allow consumers eligible for Lifeline support to receive the additional \$1.75 in federal

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support. The Commission finds that it shall authorize intrastate rate reductions for eligible telecommunications companies providing local exchange service to allow eligible consumers to receive the additional \$1.75 in federal support. Thus, the total amount of federal support is \$5.25 per eligible customer.

VIII

The second issue is whether the Commission should set up a state Lifeline program to fund further reductions in the intrastate rate paid by the end user. The Commission finds it will not set up a state Lifeline program to fund further reductions at this time.

IX

The third issue is whether to modify or eliminate the existing Lifeline program or Link Up program. With respect to the existing Lifeline program, the Commission finds that it shall eliminate the existing TAP program that requires U S WEST and carriers that have purchased U S WEST exchanges to fund a \$3.50 reduction of local rates to low income customers age 60 and over. The Commission further finds that the South Dakota Lifeline and Link Up programs shall follow the FCC rules. See 47 U.S.C. §§ 54.400 to 54.417. The effect of following the FCC rules and not instituting further state funded reductions is that the FCC eligibility requirements and self-certification requirements will apply to the South Dakota Lifeline and Link Up programs. In addition, the Commission orders that the Commission staff, in consultation with the carriers, develop a standard form for self-certification. The carriers shall send these forms to each customer prior to January 1, 1998. The carriers shall also send a form to each of their new customers. Finally, the carriers shall make the forms available to any person or entity upon request.

X

The fourth issue is whether the Commission should file, or in the alternative, require the carrier to file information with the fund administrator. See 47 C.F.R. § 54.401(d). The Commission finds the carriers shall be required to file that information demonstrating that the carrier's plan meets the applicable FCC rules and that the carrier send an informational copy to the Commission. The carriers shall also be required to include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

CONCLUSIONS OF LAW

I

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-1.1, 49-31-3, 49-31-7, 49-31-7.1, 49-31-11, 49-31-12.1, 49-31-12.2 and 12.4, and 47 C.F.R. §§ 54.400 to 54.417.

II

Pursuant to 47 C.F.R. § 54.403(a), the Commission authorizes intrastate rate reductions for eligible telecommunications companies providing local exchange service to allow eligible consumers to receive the additional \$1.75 in federal support.

III

The Commission declines to institute a state Lifeline program to fund further reductions at this time. The existing South Dakota Lifeline and Link Up programs shall be modified to follow the FCC rules found at 47 U.S.C. §§ 54.400 to 54.417, inclusive, on January 1, 1998. The Commission staff, in consultation with the carriers, shall develop a standard form for self-certification. The carriers shall send these forms to each customer prior to January 1, 1998. The carriers shall also send a form to each of their new customers. Finally, the carriers shall make the forms available to any person or entity upon request.

IV

Pursuant to 47 C.F.R. § 54.401(d), the Commission finds the carriers shall be required to file that information demonstrating that the carrier's plan meets the applicable FCC rules and that the carrier send an informational copy to the Commission. The carriers shall also be required to include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

It is therefore

ORDERED, that the Commission authorizes intrastate rate reductions for eligible telecommunications companies providing local exchange service to allow eligible consumers to receive the additional \$1.75 in federal support; and it is

FURTHER ORDERED, that the Commission will not set up a state Lifeline program to fund further reductions at this time; and it is

FURTHER ORDERED, that the Commission shall eliminate the existing TAP program; that the South Dakota Lifeline and Link Up programs follow the FCC rules; that the Commission staff, in consultation with the carriers, develop a standard form for self-certification; that the carriers shall send these forms to all of their customers prior to January 1, 1998; that the carriers shall also send a form to each of their new customers; and that the carriers make the forms available to any person or entity upon request; and it is

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FURTHER ORDERED, that the carrier shall file with the FCC the information demonstrating that the carrier's plan meets the applicable FCC rules and that the carrier send an informational copy to the Commission. The carriers shall also include in their annual report to the Commission the number of subscribers who receive Lifeline and Link Up support.

Dated at Pierre, South Dakota, this 18th day of November, 1997.

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: Melanie Kalls

Date: 11/18/97

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner