

# DIVIDER

STATE OF NORTH DAKOTA  
INFORMATION TECHNOLOGY DEPARTMENT  
SFN 2053 (4-2002)

PU-1727-02-56

Polar Telecommunications, Inc.

Local Exchange

Public Convenience & Nece

Filed 2/7/2002

Closed 5/2/2002

02

## DESCRIPTION



# Public Service Commission

State of North Dakota

## COMMISSIONERS

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Leo M. Reinbold  
Anthony T. Clark

Executive Secretary  
Jon H. Mielke

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TDD 800-366-6888  
Fax 701-328-2410  
Phone 701-328-2400

November 7, 2002

Don Negaard  
Pringle & Herigstad  
P O box 1000  
Minot ND 58702-1000

Dear Mr. Negaard:

On November 1, 2002, the Commission issued Certificates of Public Convenience and Necessity to Polar Telecommunications, Inc., Dickey Rural Access, Inc., and Red River Telecom, Inc. to provide local exchange telecommunications services inside the exchanges once served by Citizens at Pembina, Gwinner, Lisbon, Fairmount and Wyndmere, North Dakota. The certificates originally issued to Citizens for these exchanges were cancelled.

The original certificates are enclosed. You may wish to keep them with your records, or you can forward them to the telephone companies and keep a copy in your files.

If you have any questions, please call me at 701-328-4076.

Sincerely,

Sharon Helbling  
Public Utilities Division

sdh

Enclosures

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PU-1727-02-56

Pages: 1

Letter re Certificate

by Public Service Commission

11/07/2002

CC: Comm Legal Ilona Jerry.

# STATE OF NORTH DAKOTA

## Certificate of Public Convenience and Necessity

### Certificate Number 4897

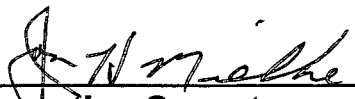
*This is to certify that public convenience and necessity require, and permission is granted for Polar Telecommunications, Inc., a telecommunications public utility, to provide local exchange telecommunications services inside the Pembina, North Dakota local exchange area.*

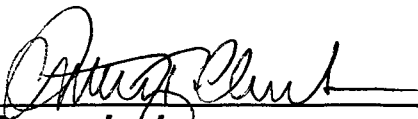
*This certificate is issued in Case No. PU-1727-02-56 and is conditioned upon Polar Telecommunications, Inc. securing the franchise or other authority of the proper municipal or other authority for the exercise of these rights and privileges.*

*Bismarck, North Dakota, November 1, 2002.*

**ATTEST:**

**PUBLIC SERVICE COMMISSION**

  
\_\_\_\_\_  
Executive Secretary

  
\_\_\_\_\_  
Commissioner

# POLAR

TELECOMMUNICATIONS



November 1, 2002

Sharon Helbling  
ND Public Service Commission  
State Capitol 12<sup>th</sup> Floor  
600 E Boulevard AV, Dept. 408  
Bismarck, ND 58505-0480

Dear Sharon:

Effective November 1, 2002, Polar Telecommunications, Inc. has purchased the exchange of Pembina, North Dakota, from Citizen's Communications and will begin providing telecommunications service to the subscribers of prefix number 701-825.

If additional information is required, please contact me at the number below or by e-mail at [jmyrvik@polarcomm.com](mailto:jmyrvik@polarcomm.com).

Sincerely,

  
Judy Myrvik  
Administrative Assistant

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Pages: 1

Notification of purchase of Pembina  
telephone exchange  
by Polar Telecommunications, Inc.

11/05/2002

CC: Comm Legal Ilona Jerry



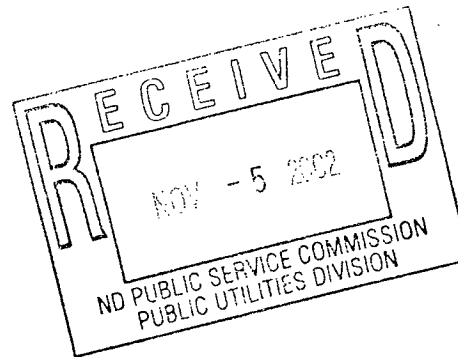
LAW OFFICES OF  
**PRINGLE & HERIGSTAD, P.C.**

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THOMAS A. WENTZ

November 1, 2002



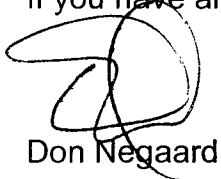
Jon H. Mielke, Executive Secretary  
Public Service Commission  
600 E. Boulevard Ave., Dept. 408  
Bismarck, ND 58505-0480

**CITIZENS TELECOMMUNICATIONS ACQUISITIONS**

**Dickey Rural Access, Inc./DEC PC&N - PU-2653-02-57**  
**Dickey Rural Access, Inc./Local Exch PC&N - PU-2653-02-58**  
**Polar Telecommunications, Inc./DEC PC&N - PU-1727-02-55**  
**Polar Telecommunications, Inc./Local Exch PC&N - PU-1727-02-56**  
**Red River Telecom, Inc./DEC App - PU-1692-02-54**  
**Red River Telecom, Inc./Local Exch PC&N - PU-1692-02-53**

This letter is to advise you that the closing of these acquisitions of exchanges of Citizens Telecommunications was conducted on October 31, 2002. The transactions closed as anticipated. Also enclosed is an Order from the FCC granting a waiver of the boundary area freeze.

If you have any questions, please do not hesitate to contact us.



Don Negaard

jt

Enclosure

cc/enc: Dave Dunning  
Ardon M. Doran  
Darren Moser

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Pages: 17

Ltr re closing of acquisitions & copy of  
FCC order granting waiver of boundary  
by Polar Telecommunications, Inc. by Don Negaard, A

11/05/2002

CC: Comm Legal Ilona Jerry

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of	)	
	)	
Dickey Rural Telephone Cooperative, Dickey	)	
Rural Access, Inc., Polar Telecommunications,	)	
Inc., Red River Rural Telephone Association, Red	)	
River Telecom, Inc.	)	
	)	
And	)	
	)	
Citizens Telecommunications Company of North	)	CC Docket No. 96-45
Dakota	)	
	)	
Joint Petition for Waiver of the Definition of	)	
“Study Area” Contained in the Part 36, Appendix-	)	
Glossary of the Commission’s Rules	)	
	)	
Petition for Waiver of Sections 61.41(c) and (d),	)	
69.3(e)(11) and 69.605(c)	)	

**ORDER**

Adopted: September 12, 2002

Released: September 13, 2002

By the Deputy Chief, Wireline Competition Bureau:

**I. INTRODUCTION**

1. In this Order, we grant a request from Dickey Rural Telephone Cooperative and Dickey Rural Access, Inc. (Dickey Rural), Polar Telecommunications, Inc. (Polar), Red River Rural Telephone Association and Red River Telecom, Inc. (Red River) (collectively, Acquiring Companies), and Citizens Telecommunications Company of North Dakota (Citizens) for a waiver of the study area boundary freeze codified in the Appendix-Glossary of Part 36 of the Commission’s rules.<sup>1</sup> This waiver will permit Citizens to remove five exchanges comprising approximately 4,155 access lines from its North Dakota study area. This waiver also will permit Dickey Rural Telephone Cooperative (the parent company of Dickey Rural Access, Inc.), Polar and Red River Rural Telephone Association (the parent company of Red River Telecom, Inc.) to add approximately 2,492 access lines, 635 access lines, and 1,028 access

<sup>1</sup> See Citizens Telecommunications Company of North Dakota, Red River Rural Telephone Association and Red River Telecom, Inc., Polar Telecommunications, Inc. and Dickey Rural Telephone Cooperative and Dickey Rural Access, Inc. Joint Petition for Waiver of the Definition of “Study Area” Contained in Part 36, Appendix—Glossary of the Commission’s Rules, Petition for Waiver of Section 61.41(c) and (d), Section 69.3(e)(11) and 69.605(c) of the Commission’s Rules (filed April 5, 2002) (*Petition*). See also Letter from Mary J. Sisak, Attorney for Dickey Rural Telephone Cooperative, Dickey Rural Access, Inc., Red River Rural Telephone Association, Red River Telecom, Inc. and Polar Telecommunications, Inc. to Marlene H. Dortch, FCC (May 13, 2002) (*Petition Supplement*).

lines, respectively, to their existing North Dakota study areas.<sup>2</sup>

2. We also grant the request of Dickey Rural for a waiver of the Commission's price cap "all-or-nothing" rule in section 61.41(c) of the Commission's rules to permit Dickey Rural to operate under rate-of-return regulation after acquiring exchanges from Citizens that are subject to price-cap regulation. In addition, we grant the request of Polar and Red River for a waiver of section 69.605(c) of the Commission's rules to allow Polar and Red River to continue operating as average schedule companies after the acquisitions from Citizens. Finally, we grant the Acquiring Companies' request for a waiver of section 69.3(e)(11) of the Commission's rules so that the Acquiring Companies can include the exchanges they acquire from Citizens in the National Exchange Carrier Association (NECA) common line tariff upon acquisition of the exchanges.

## II. STUDY AREA WAIVER

### A. Background

3. *Study Area Boundaries.* A study area is a geographic segment of an incumbent local exchange carrier's (LEC's) telephone operations. Generally, a study area corresponds to an incumbent LEC's entire service territory within a state. Thus, incumbent LECs operating in more than one state typically have one study area for each state. The Commission froze all study area boundaries effective November 15, 1984, and an incumbent LEC must apply to the Commission for a waiver of the study area boundary freeze if it wishes to sell or purchase additional exchanges.<sup>3</sup>

4. *Transfer of Universal Service Support.* Section 54.305(a) of the Commission's rules provides that a carrier acquiring exchanges from an unaffiliated carrier shall receive the same per-line levels of high-cost universal service support for which the acquired exchanges were eligible prior to their transfer.<sup>4</sup> This limitation applies to high-cost loop support, local switching support and long term support (LTS). Section 54.305(a) is meant to discourage carriers from transferring exchanges merely to increase their share of high-cost universal service support.<sup>5</sup> For example, if a rural carrier purchases an exchange from a non-rural carrier that receives support based on the Commission's high-cost support mechanism for non-rural carriers, the loops of the acquired exchange shall receive the same per-line support as calculated under the non-rural mechanism, regardless of the support the rural carrier purchasing the

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<sup>2</sup> Dickey Rural is acquiring the Gwinner and Lisbon exchanges, Polar is acquiring the Pembina exchange, and Red River is acquiring the Lisbon and Fairmount exchanges. A small number of customers located in Minnesota are served out of the Fairmount exchange being acquired by Red River and the Pembina exchange being acquired by Polar.

<sup>3</sup> See *MTS and WATS Market Structure, Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board*, CC Docket Nos. 78-72, 80-286, Recommended Decision and Order, 49 Fed. Reg. 48325 (1984); Decision and Order, 50 Fed. Reg. 939 (1985); see also *Amendment of Part 36 of the Commission's Rules and Establishment of a Joint Board*, CC Docket No. 80-286, Notice of Proposed Rulemaking, 5 FCC Rcd 5974 (1990). See also 47 C.F.R. § 36 app.

<sup>4</sup> 47 C.F.R. § 54.305.

<sup>5</sup> See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Report and Order, 12 FCC Rcd 8776, 8942-43 (1997) (*First Report and Order*), as corrected by *Federal-State Joint Board on Universal Service*, Errata, CC Docket No. 96-45, FCC 97-157 (rel. June 4, 1997), *affirmed in part, reversed in part and remanded in part sub nom. Texas Office of Public Utility Counsel v. FCC*, 183 F.3d 393 (5<sup>th</sup> Cir. 1999).

exchange may receive for any of its other exchanges.<sup>6</sup>

5. Notwithstanding the limitations provided in section 54.305(a), there are two circumstances under which rural carriers may receive additional high-cost support for acquired lines. First, the Commission recently amended section 54.305 to provide that a rural carrier may be eligible to receive additional high-cost loop support for new investments in acquired exchanges under the Commission's "safety valve" mechanism.<sup>7</sup> The total safety valve support available to all eligible carriers is limited to no more than five percent of rural incumbent LEC support available from the annual high-cost loop fund. Second, when the Commission established interstate common line support (ICLS) for rate-of-return carriers, it concluded that the limitations set forth in section 54.305(a) would not apply to such support.<sup>8</sup> Accordingly, an acquiring carrier is not limited to the amount of ICLS support that the selling carrier received.

6. *The Petition for Waivers*. On April 2, 2002, Citizens and the Acquiring Companies filed a joint petition for a waiver of the study area boundary freeze and other related waivers. On May 6, 2002, the Wireline Competition Bureau (Bureau) released a public notice seeking comment on the petition for waivers.<sup>9</sup>

7. A study area waiver would permit Citizens to alter the boundaries of its existing study area by removing five exchanges that it is transferring to the Acquiring Companies. The waiver would also permit the purchased exchanges to be added to the study areas of Dickey Rural (acquiring

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<sup>6</sup> Rural carriers receive high-cost loop support based on the extent to which their reported average cost per loop exceeds 115 percent of the nationwide average cost per loop. See 47 C.F.R. §§ 36.601-36.631. The mechanism for non-rural carriers directs support to carriers based on the forward-looking economic cost of operating a given exchange. See 47 C.F.R. § 54.309.

<sup>7</sup> See 47 C.F.R. § 54.305(b)-(f). See also *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244 at 11276-84 (2001) (*RTF Order*), as corrected by Errata, CC Docket Nos. 96-45, 00-256 (Acc. Pol. Div. rel. Jun. 1, 2001). The "safety valve" mechanism enables rural carriers acquiring access lines to receive additional high-cost loop support over a period of five years reflecting post-transaction investments made to enhance the infrastructure of and improve the service in acquired exchanges. Safety valve support provides up to 50 percent of any positive difference between a rural carrier's index year high-cost loop support expense adjustment for the acquired exchanges and subsequent year expense adjustments.

<sup>8</sup> See also *Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers in CC Docket No. 00-256, Federal-State Joint Board on Universal Service in CC Docket No. 96-45, Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation in CC Docket No. 98-77, Prescribing the Authorized Rate of Return From Interstate Services of Local Exchange Carriers in CC Docket No. 98-166*, Second Report and Order and Further Notice of Proposed Rulemaking, Fifteenth Report and Order, Report and Order and, Report and Order, 16 FCC Rcd 19613, 19667-69 paras. 155-157 (2001) (*MAG Order/NPRM*), recon. pending.

<sup>9</sup> See *Dickey Rural Telephone Cooperative, Dickey Rural Access, Inc., Polar Telecommunications, Inc., Red River Rural Telephone Association, Red River Telecom, Inc., and Citizens Telecommunications Company of North Dakota Seek a Waiver of the Definition of "Study Area" Contained in Part 36 and Sections 61.41(c) and (d), 69.3(e)(11) and 69.605(c) of the Commission's Rules*, Public Notice, DA 02-1034 (rel. May 6, 2002) (*Notice*). Comments in support of the petition were filed by NECA and the National Telecommunications Cooperative Association (NTCA). See NECA Comments at 1. See NTCA Comments at 3.

approximately 2,492 access lines),<sup>10</sup> Polar (acquiring approximately 635 access lines),<sup>11</sup> and Red River Rural Telephone Association and Red River (acquiring approximately 1,028 access lines).<sup>12</sup>

8. The Acquiring Companies also submitted an *ex parte* letter on June 11, 2002 addressing, in part, its estimates of the initial ICLS that would be available to the Acquiring Companies as a result of acquiring lines from Citizens.<sup>13</sup> The *June 11 ex parte* states that, based on projected annual ICLS and access lines as of September 9, 2001, the initial ICLS support available to the Acquiring Companies is estimated as follows: (1) Dickey Rural will be eligible to receive annual ICLS of \$150,056; (2) Polar Telecommunications, Inc. will be eligible to receive annual ICLS of \$53,845; and (3) Red River Rural Telephone Association will be eligible to receive annual ICLS of \$74,970.<sup>14</sup> According to the Acquiring Companies, the projected annual amounts reflect the ICLS impact if the companies were to be eligible for ICLS beginning July 1, 2002.<sup>15</sup> The Acquiring Companies also state that “the actual amounts received will be dispersed on a monthly basis and are dependent on the timing of the grant of the waiver request, closing of the acquisitions, and submission of updated line counts by the [A]cquiring [C]ompanies.”<sup>16</sup>

9. Standards for Waiver. Generally, the Commission’s rules may be waived for good cause shown.<sup>17</sup> As noted by the Court of Appeals for the D.C. Circuit, however, agency rules are presumed valid.<sup>18</sup> The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest.<sup>19</sup> In addition, the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual

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<sup>10</sup> Dickey Rural was created to purchase and operate Citizens’ Gwinner and Lisbon exchanges. Dickey Rural will be added to the existing Dickey Rural Telephone Cooperative study area currently comprised of approximately 8800 access lines in North Dakota. *See* Petition at 2-4.

<sup>11</sup> Citizens’ Pembina exchange will be added to Polar’s study area. Polar’s current study area is comprised of approximately 1,614 access lines in North Dakota. Polar is a wholly owned subsidiary of Polar Communications Mutual Aid Corporation d/b/a Polar Communications which has a separate study area. *See* Petition at 2, 4.

<sup>12</sup> Citizens’ Wyndmere and Fairmount exchanges will be acquired by Red River. Red River, which is a wholly-owned subsidiary of Red River Rural Telephone Association, will add the exchanges to the approximate 1,745 lines it already serves within Red River Rural Telephone Association’s North Dakota study area. The Red River Rural Telephone Association presently serves four exchanges in North Dakota and three exchanges in Minnesota out of its North Dakota study area. *See* Petition at 2,4.

<sup>13</sup> *See* Letter from Mary J. Sisak, Counsel for Dickey Rural Telephone Cooperative, Dickey Rural Access, Inc., Red River Rural Telephone Association, Red River Telecom, Inc., and Polar Telecommunications, Inc. to Marlene H. Dortch, FCC, dated June 11, 2002 at 2 (*June 11 ex parte*).

<sup>14</sup> This estimate is based on data provided by NECA to the Universal Service Administrative Company on April 18, 2002 and copied to NECA common line pool members. *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> 47 C.F.R. § 1.3.

<sup>18</sup> *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1027 (1972).

<sup>19</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

basis.<sup>20</sup> Waiver of the Commission's rules is therefore appropriate only if special circumstances warrant a deviation from the general rule, and such deviation will serve the public interest. In evaluating petitions seeking a waiver of the rule freezing study area boundaries, the Commission traditionally has applied a three-prong standard: (1) the change in study area boundaries must not adversely affect the universal service fund; (2) no state commission having regulatory authority over the transferred exchanges opposes the transfer; and (3) the transfer must be in the public interest.<sup>21</sup>

10. In evaluating whether a study area boundary change will have an adverse impact on the universal service fund, we analyze whether a study area waiver will result in an annual aggregate shift in high-cost loop support in an amount equal to or greater than one percent of the total high-cost loop support fund for the year 2002.<sup>22</sup> The Commission began applying the one-percent guideline in 1995 to limit the potential adverse impact of exchange sales on the overall fund, also recognizing that, because of the indexed cap, an increase in the draw of any fund recipient necessarily reduces the amounts that other LECs receive from the fund.<sup>23</sup> After adoption of section 54.305(a) of the Commission's rules, however, the one-percent guideline, was not, in practice, a limitation because section 54.305(a) provides that a carrier purchasing exchanges from an unaffiliated carrier is permitted to receive only the same level of per-line high-cost support that the selling company was receiving for the exchanges prior to the transfer.<sup>24</sup> Accordingly, by definition, section 54.305(a) ensured that there would be no adverse impact on the universal service fund. Consistent with past precedent, we now apply the one-percent guideline to determine the impact on the universal service fund, in light of the adoption of "safety valve" support, which allows an acquiring carrier to receive support for new investments in acquired lines, and ICLS, which does not limit the amount of such support that a carrier can receive for acquired lines.<sup>25</sup>

## B. Discussion

11. We find that good cause exists to waive the study area boundary freeze codified in the Appendix-Glossary of Part 36 of the Commission's rules to permit Citizens to alter the boundaries of its existing North Dakota study area to remove five exchanges that it is transferring to the Acquiring Companies. We also find that good cause exists to permit the Acquiring Companies to add these exchanges to their North Dakota study areas. For the reasons discussed below, we conclude that petitioners have satisfied the three-prong standard the Commission has applied to determine whether a waiver is warranted.

12. Because the proposed study area waiver will not result in a shift in high-cost support in

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<sup>20</sup> *WAIT Radio*, 418 F.2d at 1159; *Northeast Cellular*, 897 F.2d at 1166.

<sup>21</sup> See, e.g., *US WEST Communications, Inc., and Eagle Telecommunications, Inc., Joint Petition for Waiver of the Definition of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules*, AAD 94-27, Memorandum Opinion and Order, 10 FCC Rcd 1771, 1772 (1995) (*PTI/Eagle Order*).

<sup>22</sup> See *PTI/Eagle Order* at 1774, paras. 14-17. See *US WEST Communications, Inc., and Eagle Telecommunications, Inc., Joint Petition for Waiver of "Study Area" Contained in Part 36, Appendix-Glossary of the Commission's Rules, and Petition for Waiver of Section 61.41(c) of the Commission's Rules*, AAD 94-27, Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 4644 (1997).

<sup>23</sup> See *PTI/Eagle Order* at 1773, para. 13.

<sup>24</sup> See 47 C.F.R. § 54.305(a).

<sup>25</sup> See *supra* para. 5 (discussing "safety valve" support and ICLS).

an amount equal to or greater than one-percent of the total high-cost support fund, we conclude that the universal service fund will not be adversely affected. High cost loop support, local switching support, and LTS are limited by section 54.305(a) of the Commission's rules.<sup>26</sup> Accordingly, the Acquiring Companies are limited to the same per-line levels of support that Citizens was receiving prior to the transfer. In this instance, Citizens has not been eligible for high-cost support, and therefore the Acquiring Companies will not receive such support on the lines they acquire from Citizens.<sup>27</sup> Although the Acquiring Companies may be eligible for safety valve support for investments in the acquired lines, we have no reason to believe that this amount would realistically exceed one percent of the total high-cost support fund. In reaching this conclusion, we note that the proposed study area waiver involves the transfer of only approximately 4,155 access lines. Moreover, an individual rural carrier's safety valve support is capped at 50 percent of any positive difference between the amount of high-cost loop support that the rural carrier would qualify for in the index year for the acquired access lines and the support amounts that the carrier would qualify for in subsequent years.<sup>28</sup> The total amount of safety valve support available to rural carriers is also capped at five percent of annual high-cost loop support available to rural carriers in any particular year, thereby providing an additional limitation on the amount of safety valve support available to carriers.<sup>29</sup>

13. Likewise, we find that providing ICLS support to the Acquiring Companies will not result in more than a one-percent change in the total high-cost fund.<sup>30</sup> Dickey Rural, Polar and Red River estimate that they may be eligible to receive annual ICLS in the amounts of \$150,056, \$53,845 and \$74,970, respectively, totaling \$278,871.<sup>31</sup> The total high-cost fund for the year 2002 is projected to be \$5.9 billion dollars, one percent of which would be \$59 million dollars. We therefore conclude that the combined total amount of \$278,871 that the Acquiring Companies estimate they will receive in ICLS, in addition to any amounts the Acquiring Companies may be eligible to receive in safety valve support, will not have an adverse impact on the universal service fund.<sup>32</sup>

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<sup>26</sup> See 47 C.F.R. § 54.305(a).

<sup>27</sup> See Universal Service Administrative Company, Federal Universal Service Support Mechanisms Fund Size Projections for the Fourth Quarter 2002 (rel. August 2, 2002).

<sup>28</sup> See 47 C.F.R. § 54.305(d). See *supra* note 7. The term "rural carrier" refers to an incumbent local exchange carrier that meets the definition of "rural telephone company" in section 3(37) of the Communications Act of 1934, as amended. See 47 U.S.C. § 153(37). Because each of the Acquiring Companies provide telephone exchange service to local exchange study areas with fewer than 100,000 access lines, they all meet the definition of "rural telephone company" in the Act.

<sup>29</sup> See 47 C.F.R. § 54.305(e).

<sup>30</sup> See 47 C.F.R. § 54.902.

<sup>31</sup> See *June 11 ex parte* at 2.

<sup>32</sup> We acknowledge in applying the one-percent rule to past study area waiver requests, we considered how much an acquiring company's universal service fund draw would increase as a result of a transaction. See *generally Eagle Order*. In the case of the Acquiring Companies, however, this analysis would not be useful. Because section 54.305 applies to high cost loop support, local switching support, and LTS, the Acquiring Companies are limited to the same per-line levels of support Citizens is receiving, and we have acknowledged that Citizens is not receiving support. As for safety valve support, we cannot predict or estimate how it will impact the Acquiring Companies' draw on the fund because safety valve support will not be calculable unless and until post-transaction investments are made. Similarly, while we have estimates for ICLS support, this is a new type of support which (continued...)

14. Second, the state commissions with regulatory authority over the transferred exchanges do not oppose the transfer. The North Dakota Public Service Commission issued a letter approving the transfer of the affected exchanges and indicating that it does not object to a grant of the study area waiver.<sup>33</sup> The Minnesota Public Utilities Commission issued orders approving the transfer of the Fairmount and Pembina exchanges to Red River and Polar, respectively, and indicating that it does not object to a grant of the study area waiver.<sup>34</sup>

15. Third, we conclude that the public interest is served by a waiver of the study area freeze rule to permit Citizens to remove the Gwinner, Lisbon, Pembina, Wyndmere and Fairmount exchanges from its North Dakota study area and to permit the Acquiring Companies to include the acquired exchanges in their North Dakota study areas. In the Petition, the Acquiring Companies indicate their desire to expand their operations by acquiring Citizens' exchanges. The Acquiring Companies state that, once acquired, the exchanges will be under local ownership and management enabling the Acquiring Companies to offer enhanced customer response time and service.<sup>35</sup> In contrast, as part of Citizens, the affected exchanges are not under local ownership and management.<sup>36</sup>

16. All three of the companies plan to offer advanced services, such as DSL, as well as an expanded list of vertical services. Red River, for example, noted its plan to offer voice mail, caller ID and selective call acceptance or rejection. Red River also stated its intention to expand its local calling area to include calls between Red River's existing Hankinson exchange and the Fairmount exchange.<sup>37</sup> Polar noted its intention to offer enhanced data services including frame relay and ATM, voice mail, call trace, preferred call forwarding, auto recall and callback, and selective call acceptance and rejection.<sup>38</sup> Finally, Dickey Rural stated that it will offer new services as supported by customer demand.<sup>39</sup> Based on these representations, we conclude that the Acquiring Companies have demonstrated that grant of this waiver request will serve the public interest.<sup>40</sup>

(Continued from previous page) \_\_\_\_\_

has never been included in the universal service support fund. Thus, a showing of the before and after impact of the Acquiring Companies' potential draw of ICLS would have no significance.

<sup>33</sup> See Petition Supplement at 2 (Letter from Public Service Commission, State of North Dakota to Katherine Schroder, Chief, Telecommunications Access Policy Division (May 1, 2002)).

<sup>34</sup> See Petition Supplement at 2 (Minnesota Public Service Commission, *Request for Approval of the Transfer of the Minnesota Portion of the Fairmount Exchange from Citizens Telecommunications Company of North Dakota to Red River Telecom, Inc.*, Order, Docket No. P-6100/PA-02-393 (May 2, 2002); Minnesota Public Service Commission, *Request for Approval of the Transfer of the Minnesota Portion of the Pembina Exchange from Citizens Telecommunications Company of North Dakota to Polar Telecommunication, Inc.*, Order, Docket No. P-6101/PA-02-396 (May 2, 2002)).

<sup>35</sup> See Petition at 17.

<sup>36</sup> *Id.*

<sup>37</sup> Currently, calls between the Hankinson and Fairmount exchanges are long distance. *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Pending Commission review of a study area waiver request and consistent with Part 36 of the Commission's rules, parties involved in the transfer of access lines are reminded to continue filing combined cost data for the (continued....)

17. We note that, as a result of this transaction, access lines in Dickey Rural's pre-acquisition study area boundary will be eligible for different amounts of high-cost support than the access lines being transferred from Citizens' study area. We therefore direct Dickey Rural, as part of its annual universal service data submissions, to file a schedule showing its methodology for excluding the costs associated with the acquired access lines from the costs associated with its pre-acquisition study areas.<sup>41</sup>

18. Finally, on May 11, 2001, the Commission adopted a Report and Order requiring incumbent LECs to freeze, on an interim basis, the Part 36 jurisdictional rules beginning July 1, 2001.<sup>42</sup> In the *Separations Freeze Order*, the Commission addressed how an incumbent LEC acquiring exchanges from another incumbent LEC shall recalculate their frozen separations factors.<sup>43</sup> Accordingly, Dickey Rural is required to recalculate its jurisdictional separations factors pursuant to the *Separations Freeze Order* and Commission rules.

### III. PRICE CAP WAIVER

#### A. Background

19. Section 61.41(c)(2) of the Commission's rules provides that a non-price cap carrier that acquires access lines from a price cap carrier shall become subject to price cap regulation and must file price cap tariffs within a year.<sup>44</sup> Section 61.41(c)(3) of the Commission's rules provides that an average schedule company that acquires exchanges from a price cap company is permitted to retain its average schedule status.<sup>45</sup> Also, section 61.41(d) of the Commission's rules provides that LECs that become subject to price cap regulation are not permitted to withdraw from such regulation.<sup>46</sup>

20. In the *LEC Price Cap Reconsideration Order*, the Commission explained that section 61.41(c), the "all-or-nothing" rule, is intended to address two concerns regarding mergers and acquisitions involving price cap companies.<sup>47</sup> The first concern was that, in the absence of the rule, a LEC might  
(Continued from previous page) \_\_\_\_\_  
subject study area with NECA. See 47 C.F.R. §§ 36.601-36.631. Such cost data is used by NECA to determine carrier eligibility for high-cost universal service support.

<sup>41</sup> See 47 C.F.R. § 36.611.

<sup>42</sup> See generally *Jurisdictional Separations and Referral to the Federal-State Joint Board*, Report and Order, CC Docket No. 80-286, 16 FCC Rcd 11382 (2001) (*Separations Freeze Order*). See also 47 C.F.R. § 36.3(c) and (d).

<sup>43</sup> See *Separations Freeze Order*, paras. 48-53.

<sup>44</sup> 47 C.F.R. § 61.41(c)(2). See *Policy and Rules Concerning Rates for Dominant Carriers*, CC Docket No. 87-313, Second Report and Order, 5 FCC Rcd 6786 (*LEC Price Cap Order*), Erratum, 5 FCC Rcd 7664 (Com. Car. Bur. 1990), *modified on recon.*, Order on Reconsideration, 6 FCC Rcd 2637 (1991) (*LEC Price Cap Reconsideration Order*), *aff'd sub nom. National Rural Telecom Ass'n v. FCC*, 988 F.2d 174 (D.C. Cir. 1993), *petitions for further recon. dismissed*, 6 FCC Rcd 7482 (1991), *further modification on recon.*, *Amendments of Part 69 of the Commission's Rules Relating to the Creation of Access Charge Supplements for Open Network Architecture, Policy and Rules Concerning Rates for Dominant Carriers*, Report and Order and Order on Further Reconsideration and Supplemental Notice of Proposed Rulemaking, 6 FCC Rcd 4524 (1991), *further recon.*, Memorandum Opinion and Order of Second Further Reconsideration, 7 FCC Rcd. 5235 (1992).

<sup>45</sup> 47 C.F.R. § 61.41(c)(3).

<sup>46</sup> 47 C.F.R. § 61.41(d).

<sup>47</sup> See *LEC Price Cap Reconsideration Order*, 6 FCC Rcd at 2706.

attempt to shift costs from its price cap affiliate to its non-price cap affiliate, allowing the non-price cap affiliate to charge higher rates to recover its increased revenue requirement, while increasing the earnings of the price cap affiliate. The second concern was that, absent the rule, a LEC might attempt to game the system by switching back and forth between rate-of-return regulation and price cap regulation.<sup>48</sup>

21. The Commission nonetheless recognized in the *LEC Price Cap Reconsideration Order* that narrow waivers of the price cap “all-or-nothing” rule might be justified if efficiencies created by the purchase and sale of exchanges outweigh the threat that the system might be subject to gaming.<sup>49</sup> The Commission stated that waivers of section 61.41(c) will be granted conditioned on the selling price cap company’s downward adjustment to its price cap indices to reflect the sale of exchanges.<sup>50</sup> In addition, waivers of the all-or-nothing rule have been granted subject to the condition that the acquiring carrier obtains prior Commission approval if it seeks to elect price cap regulation.<sup>51</sup>

22. Dickey Rural seeks a waiver of section 61.41(c) because it desires to operate under rate-of-return regulation after Dickey Rural acquires price cap exchanges from Citizens.<sup>52</sup> Dickey Rural operates under rate-of-return regulation, while Citizens is subject to price cap regulation.<sup>53</sup> Absent a waiver of the all-or-nothing price cap rules, Dickey Rural would be subject to price cap regulation no later

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<sup>48</sup> *Id.*

<sup>49</sup> *Id.* at 2706, n. 207.

<sup>50</sup> See *Price Cap Performance Review for Local Exchange Carriers*, CC Docket No. 94-1, First Report and Order, 10 FCC Rcd 8961, 9104-06 (1995) (*LEC Price Cap Review Order*). The Price Cap Indices, which are the upper bounds for rates that comply with price cap regulation, are calculated pursuant to a formula specified in the Commission’s rules for price cap carriers. See 47 C.F.R. § 61.45. The Commission explained that such an adjustment is needed to remove the effects of transferred exchanges from rates that have been based, in whole or in part, upon the inclusion of those exchanges in a carrier’s price cap indices. See *LEC Price Cap Review Order*, 10 FCC Rcd at 9105-9106.

<sup>51</sup> See, e.g., *Rye Telephone Company, Inc. and US WEST Communications, Inc., Joint Petition for Waiver of Definition of “Study Area” Contained in the Part 36 Appendix-Glossary of the Commission’s Rules and Petition for Waiver of Section 61.41(c)(2) of the Commission’s Rules*, CC Docket No. 96-45, Order, 15 FCC Rcd 18738, para. 17 (Acc. Pol. Div. 2000); *ALLTEL Corp. Petition for Waiver of Section 61.41 of the Commission’s Rules and Application for Transfer of Control*, CCB/CPD No. 99-1, Memorandum Opinion and Order, 14 FCC Rcd. 14191, 14202 (1999) (*ALLTEL/Aliant Merger Order*).

<sup>52</sup> We note that Dickey Rural has also requested a waiver of section 61.41(d) of the Commission’s rules, which provides that LECs that become subject to price cap regulation are not permitted to withdraw from such regulation. 47 C.F.R. §§ 61.41(d). Because Dickey Rural will not become subject to price cap regulation as a result of the instant transaction, a waiver of section 61.41(d) is unnecessary.

<sup>53</sup> See Petition at 4. The other Acquiring Companies, Polar and Red River, receive settlements from NECA on an average schedule basis and are therefore not subject to section 61.41(c) of the Commission’s rules unless they later choose to become subject to price cap regulation. See Petition at 4-5. See 47 C.F.R. § 61.41(c)(3); see also *All West Communications, Inc., Carbon/Emery Telecom, Inc., Central Utah Telephone, Inc., Hanksville Telecom, Inc., Manti Telephone Co., Skyline Telecom, UBET Telecom, Inc., and Qwest Corp. Joint Petition for Waiver of the Definition of “Study Area” Contained in the Part 36 Appendix-Glossary of the Commission’s Rules, Petition for Waiver of Sections 61.41(c), 61.41(d), and 69.3(e)(11)*, CC Docket No. 96-45, Order, 16 FCC Rcd 4697, 4705, para. 18 n.51 (Com. Car. Bur. 2001).

than one year after acquiring Citizens' price cap exchanges.<sup>54</sup> Dickey Rural claims that it is neither attempting to shift costs between price cap and non-price cap affiliates nor is it attempting to establish a large rate base by switching back and forth between rate-of-return regulation and price cap regulation.<sup>55</sup> NTCA and NECA support this waiver request.

## B. Discussion

23. For the reasons discussed below, we find that good cause exists for us to waive section 61.41(c)(2) of the Commission's rules, and that it would be in the public interest to grant the waiver request of Dickey Rural.<sup>56</sup> As discussed previously, the courts have interpreted the Commission's rules to require a petitioner seeking a waiver of a Commission rule to demonstrate that special circumstances warrant a deviation from the general rule, and that such a deviation will serve the public interest.<sup>57</sup>

24. Because Dickey Rural is significantly smaller than any of the carriers subject to mandatory price caps, we find that special circumstances warrant a waiver of section 61.41(c)(2). In evaluating requests for waiver of section 61.41(c), the Bureau has taken into account the requesting company's preferences and, in particular, the preferences of small carriers.<sup>58</sup> In fact, the Commission traditionally has been sensitive to the unique administrative burdens imposed on small telephone companies by the application of its rules.<sup>59</sup> In the *LEC Price Cap Order*, the Commission decided that small telephone companies would not be required to operate under a regulatory regime that was designed largely on the basis of the historical performance of the largest LECs.<sup>60</sup> The Commission explained that small and mid-size LECs may have fewer opportunities than large companies to achieve cost savings and efficiencies and may be less productive than the Regional Bell Operating Companies (RBOCs) and GTE.<sup>61</sup> The Commission, therefore, limited the mandatory application of price cap regulation to the then-existing eight largest LECs – the seven RBOCs and GTE.

25. Dickey Rural is a small telephone company that has expressed a preference for operating

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<sup>54</sup> See Petition at 5. See also 47 C.F.R. § 61.41(c)(2). A Further Notice of Proposed Rulemaking is pending which, in part, seeks comment on a proposal from the Multi-Association Group (MAG) to remove the "all-or-nothing" rule. See *MAG Order/NPRM* at 19717-24.

<sup>55</sup> See Petition at 8-9.

<sup>56</sup> Although Dickey Rural seeks a waiver of section 61.41(c) in its entirety, we find that it is only necessary to grant a waiver of section 61.41(c)(2) of the Commission's rules which, absent a waiver, would require that Dickey Rural become subject to price cap regulation no later than one year after acquiring Citizens' price cap exchanges. Section 61.41(c)(1) applies to carriers that are subject to price cap regulation prior to an acquisition or merger and section 61.41(c)(3) applies to average schedule companies.

<sup>57</sup> See *supra* para. 9.

<sup>58</sup> See, e.g., *ALLTEL/Aliant Merger Order*, 14 FCC Rcd at 14204-05.

<sup>59</sup> See, e.g., *ALLTEL/Aliant Merger Order*, 14 FCC Rcd at 14204; *In the Matter of Minburn Telecommunications, Inc., Petition for Waiver of Sections 61.41(c) and (d) of the Commission's Rules*, CCB/CPD No. 99-16, Memorandum Opinion and Order, 14 FCC Rcd 14184, 14187 (Com. Car. Bur. 1999).

<sup>60</sup> See *LEC Price Cap Order*, 5 FCC Rcd at 6799-6801, 6818-19.

<sup>61</sup> *Id.*

under rate-of-return regulation.<sup>62</sup> This operation will be smaller than other carriers that have been granted waivers of the Commission's price cap rules.<sup>63</sup> Further, Dickey Rural is the type of small carrier that the Commission has previously found to be an inappropriate candidate for price cap regulation.<sup>64</sup> For these reasons, we find that Dickey has presented special circumstances to support its waiver request.

26. We also find that a waiver of section 61.41(c)(2) serves the public interest. We agree with Dickey Rural that cost-shifting between affiliates and gaming the system – the Commission's two primary concerns regarding price cap waivers – are not present with regard to Dickey Rural's acquisition of Citizens' exchanges.<sup>65</sup> The first concern, cost-shifting between affiliates, does not appear to be applicable here because the Dickey Rural affiliates are non-price cap affiliates and are not seeking to maintain separate affiliates under different systems of regulation.<sup>66</sup> Because the Dickey Rural affiliates will be rate-of-return affiliates, Dickey Rural will not have the opportunity to shift costs between price cap and rate-of-return affiliates. Second, to safeguard against possible gaming that could result from attempts to elect price-cap regulation at a later time, we will require Dickey Rural (and any of its affiliates) to seek prior Commission approval if it seeks to elect price cap regulation. At that time, we can make a determination if the transaction raises the concerns that we seek to address in section 61.41(c). We believe that requiring Dickey Rural to seek Commission approval before electing price cap regulation is sufficient to deter gaming in the future.

27. Finally, section 61.45 grants us discretion to require price cap carriers to make adjustments to their price cap indices to reflect cost changes resulting from rule waivers.<sup>67</sup> Accordingly, we will require Citizens to adjust its price cap indices to reflect the removal of the transferred access lines from its North Dakota study area.

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<sup>62</sup> See Petition at 6-8. After the proposed transaction, Dickey Rural Telephone Cooperative will serve approximately 11,292 access lines which is inclusive of the access lines of its subsidiaries Dickey Rural and Dickey Rural Communications. See Petition at 3-4.

<sup>63</sup> See, e.g., *CenturyTel of Northwest Arkansas, LLC et al., Joint Petition for Waiver of Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules, Petition for Waiver of Sections 61.41(c) and 69.3(g)(2) of the Commission's Rules*, CC Docket No. 96-45, Memorandum Opinion and Order, 15 FCC Rcd 25437 (Acc. Pol. Div. 2000) (approving the conversion of 214,270 access lines from price cap to rate-of-return regulation); *ALLTEL/Aliant Merger Order* (approving the conversion of approximately 300,000 access lines from price cap to rate-of-return regulation); *In the Matter of ALLTEL Service Corporation, Petition for Waiver of Section 61.41 of the Commission's Rules*, Order, 8 FCC Rcd 7054 (Com. Car. Bur. 1993) (approving the conversion of approximately 285,000 access lines from price cap to rate-of-return regulation).

<sup>64</sup> See *LEC Price Cap Order*, para. 6 (limiting mandatory price cap participation to the eight largest LECs at that time – the seven Bell Operating Companies and GTE).

<sup>65</sup> See Petition at 8.

<sup>66</sup> *Id.* at 4.

<sup>67</sup> See 47 C.F.R. § 61.45(d).

#### IV. AVERAGE SCHEDULE WAIVER

##### A. Background

28. Incumbent LECs that participate in NECA pools collect access charges from interexchange carriers at the rates contained in the tariffs filed by NECA.<sup>68</sup> Each pool participant receives settlements from the pools to recover the cost of providing service plus a pro-rata share of the pool's earnings.<sup>69</sup> NECA pool participants' interstate access charge settlements are determined either on the basis of cost studies or average schedule formulas. Cost companies are LECs that receive compensation for interstate telecommunications services based on their actual interstate investment and expenses, calculated from detailed cost studies. Average schedule companies are those incumbent LECs that receive compensation for use of their interstate common carrier services on the basis of formulas that are designed to simulate the disbursements that would be received by a cost company that is representative of average schedule companies.<sup>70</sup> In electing average schedule status, average schedule companies are able to avoid the administrative and financial burdens of performing interstate cost studies.

29. Section 69.605(c) of the Commission's rules provides, in pertinent part, that "a telephone company that was participating in average schedule settlements on December 1, 1982, shall be deemed to be an average schedule company."<sup>71</sup> The definition of "average schedule company" includes existing average schedule incumbent LECs, but does not allow the creation of new average schedule companies or the conversion of cost-based carriers to average schedule status without a waiver of the Commission's rules.<sup>72</sup> The definition was designed to limit the use of average schedule formulas to companies that operated as average schedule companies prior to adoption of the rule or that are able to demonstrate compelling circumstances sufficient to warrant a special exception.<sup>73</sup> Accordingly, absent a waiver of section 69.605(c), an average schedule company acquiring additional lines would be required to convert to operation as a cost-based company.<sup>74</sup> Our actions on Polar's and Red River's request, therefore, are guided by the principle that incumbent LECs settle on a cost basis whenever possible without undue hardship.

30. The Bureau, however, has granted waivers to certain small carriers that lacked the resources to operate on a cost-study basis.<sup>75</sup> Polar and Red River have requested a waiver of section

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<sup>68</sup> See 47 C.F.R. § 69.601.

<sup>69</sup> See 47 C.F.R. §§ 69.601-69.612.

<sup>70</sup> See 47 C.F.R. § 69.606(a).

<sup>71</sup> 47 C.F.R. § 69.605(c).

<sup>72</sup> An incumbent LEC may convert from an average schedule company to a cost company, but a carrier must obtain a waiver of section 69.605(c) to change from a cost company to an average schedule company. See 47 C.F.R. § 69.605(c).

<sup>73</sup> See *Petition of Waiver Filed by Heartland Telecommunications Company of Iowa and Hickory Tech Corporation*, AAD No. 96-94, Memorandum Opinion and Order, 14 FCC Rcd 13661 at 13662, para. 3 (1999).

<sup>74</sup> *Id.* para. 7.

<sup>75</sup> See *BPS Telephone Co. Petition for Waiver of Section 69.605(c) of the Commission's Rules*, AAD No. 95-67, Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 13820, 13824 (Acc. Aud. Div. 1997) (*BPS*). See, e.g., *Dumont Telephone Company, Inc. and Universal Communications, Inc., Request for Extraordinary* (continued....)

69.605(c) of the Commission's rules in order to continue operating as average schedule companies following the proposed transaction.<sup>76</sup> Polar and Red River argue that a waiver permitting them to retain their average schedule status is justified due to their small size and the saved time, effort and funds that will be realized by their not having to perform cost studies.<sup>77</sup> Polar and Red River also argue that an average schedule waiver will not result in unintended effects on interstate revenue requirements or in administrative burdens on the Commission or NECA.<sup>78</sup> NTCA and NECA support this waiver request.

## B. Discussion

31. We are persuaded that good cause exists for us to grant Polar's and Red River's request for a waiver of section 69.605(c). The Commission has permitted smaller carriers to elect to receive interstate compensation from average schedules as a way to avoid imposing the burdens and costs associated with performing cost separations studies needed to determine access charges. The high cost of completing cost studies relative to the small size of Polar and Red River, establishes the special circumstances that warrant granting their request for a waiver of section 69.605(c) of the Commission's rules. We have previously granted waivers of section 69.605(c) to similarly sized carriers.<sup>79</sup> We agree with Polar and Red River that they fall within the range of other average schedule companies that the Bureau has found did not have sufficient resources or expertise to justify conversion of their average schedule status to cost-based settlements.<sup>80</sup> We therefore find that Polar's and Red River's requested waiver of section 69.605(c) of the Commission rules is in the public interest and should be granted.

## V. WAIVER OF SECTION 69.3(E)(11)

### A. Background

32. Under section 69.3 of the Commission's rules, annual access tariffs, including the tariffs filed by NECA on behalf of companies that participate in NECA's access tariffs, go into effect on July 1

(Continued from previous page)

*Relief*, AAD 96-94, Memorandum Opinion and Order, 13 FCC Rcd 17821 (Acc. Saf. Div. 1998) (waiver granted to Dumont Telephone Company, Inc. and Universal Communications, Inc., which had approximately 1,544 access lines); *Petitions for Waiver Filed by Accent Communications, et al.*, AAD No. 95-124, Memorandum Opinion and Order, 11 FCC Rcd 11,513 (Acc. Aud. Div. 1996) (waiver granted to Moberge Telecommunications Company, which had approximately 2,400 access lines); *National Utilities, Inc. and Bettles Telephone Co., Inc. Petition for Waiver of Section 69.605(c) of the Commission's Rules*, Report and Order, 8 FCC Rcd 8723 (Comm. Car. Bur. 1993) (waiver granted for National Utilities, which had 2,350 access lines, and Bettles, which had 50 access lines); *Newcastle Telephone Co. Petition for Waiver of Section 69.605(c)*, AAD No. 90-18, Memorandum Opinion and Order, 7 FCC Rcd 2081 (Com. Car. Bur. 1992) (waiver granted for small company with 1550 access lines, two exchanges).

<sup>76</sup> See Petition at 9.

<sup>77</sup> See generally Petition at 10-13.

<sup>78</sup> See Petition at 12.

<sup>79</sup> See *BPS*, 12 FCC Rcd at 13824. See *supra* note 75. Polar is adding approximately 635 access lines to its existing 1,614 access lines. Red River is adding approximately 1,028 access lines to its existing 1,745 access lines.

<sup>80</sup> See Petition at 12.

of each year.<sup>81</sup> To minimize the complexity of administering NECA's common line pool and Long Term and Transitional Support (LTS) program, any change in NECA common line tariff participation and LTS resulting from a merger or acquisition of telephone properties is effective on the next annual access tariff filing effective date following the merger or acquisition.<sup>82</sup> Because the next annual access tariff filing effective date is not until July 1, 2003,<sup>83</sup> the Acquiring Companies would be required to file their own interstate tariffs for the acquired access lines until July 1, 2003. In order to avoid the burdens associated with filing their own tariffs, the Acquiring Companies have requested a waiver of section 69.3(e)(11) of the Commission's rules to enable the acquired access lines to participate in the NECA carrier common line tariff upon the date of the closing of the transaction.<sup>84</sup> The Acquiring Companies also indicate that the inclusion of the small number of access lines they are acquiring from Citizens in the NECA carrier common line tariffs would represent a minimal increase in NECA common line pool participation and would not unduly increase the complexity of administering the LTS program.<sup>85</sup> NECA, in its comments, "affirms that the proposed addition of lines to the common line pool will not significantly impact common line pool revenue requirements and will not impose any undue administrative burdens on NECA."<sup>86</sup> NTCA also supports this waiver request.

## B. Discussion

33. We find that the Acquiring Companies have demonstrated that special circumstances warrant a deviation from section 69.3(e)(11) of our rules and that it would be in the public interest to grant the Acquiring Companies' waiver request. According to NECA, "the proposed addition of lines to the common line pool will not significantly impact common line pool revenue requirements and will not impose any undue administrative burdens on NECA."<sup>87</sup> Based on NECA's representation in its comments, we conclude that the inclusion of the acquired access lines in the NECA carrier common line tariff represent a minimal increase in NECA common line pool participation. Also, we believe that it would be administratively burdensome for the Acquiring Companies to develop and file their own interstate tariffs until July 1, 2003 for a relatively small number of access lines. Consequently, we find that the Acquiring Companies present special circumstances to justify a waiver of section 69.3(e)(11). Moreover, we believe that a waiver of section 69.3(e)(11) will be in the public interest because the Acquiring Companies will be able to devote additional resources to providing improved telecommunications services to the affected rural areas that, absent the waiver, may otherwise be utilized on tariff filings. We, therefore, conclude that good cause exists to grant a waiver of section 69.3(e)(11) to the Acquiring Companies.

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<sup>81</sup> See 47 C.F.R. § 69.3(a).

<sup>82</sup> 47 C.F.R. § 69.3(e)(11). See *Amendment of Part 69 of the Commission's Rules Relating to the Common Line Pool Status of Local Exchange Carriers Involved in Mergers or Acquisitions*, CC Docket No. 89-2, Report and Order, 5 FCC Rcd 231, 248 (1989).

<sup>83</sup> See 47 C.F.R. § 69.3(a).

<sup>84</sup> See Petition at 13-14.

<sup>85</sup> *Id.* at 13-14.

<sup>86</sup> See NECA Comments to Notice at 4, filed June 5, 2002.

<sup>87</sup> *Id.*

**VI. ORDERING CLAUSES**

34. Accordingly, IT IS ORDERED, pursuant to sections 1, 4(i), 5(c), 201, 202 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, 202, and 254 and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that the petition for waiver of the study area boundary freeze as codified in Part 36, Appendix-Glossary, of the Commission's rules, filed by Dickey Rural Telephone Cooperative and Dickey Rural Access, Inc., Polar Telecommunications, Inc., Red River Rural Telephone Association and Red River Telecom, Inc. and Citizens Telecommunications Company of North Dakota on April 5, 2002, IS GRANTED, as described herein.

35. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 5(c), 201, and 202 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, and 202, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that the petition for waiver of section 61.41(c) of the Commission's rules, 47 C.F.R. § 61.41(c), filed by Dickey Rural Telephone Cooperative and Dickey Rural Access, Inc., IS GRANTED, to the extent described herein.

36. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 5(c), 201, and 202 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, and 202, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that the petition for waiver of section 69.605(c) of the Commission's rules, 47 C.F.R. § 69.605(c), filed by Polar Telecommunications, Inc. and Red River Rural Telephone Association and Red River Telecom, Inc., IS GRANTED, as described herein.

37. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 5(c), 201, and 202 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, and 202, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that the petition for waiver of section 69.3(e)(11) of the Commission's rules, 47 C.F.R. § 69.3(e)(11), filed by Dickey Rural Telephone Cooperative and Dickey Rural Access, Inc., Polar Telecommunications, Inc., and Red River Rural Telephone Association and Red River Telecom, Inc., IS GRANTED, as described herein.

38. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 5(c), 201, and 202 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, and 202, and sections 0.91, 0.291, and 1.3 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 1.3, that Dickey Rural Telephone Cooperative and Dickey Rural Access, Inc., SHALL SUBMIT, as part of their annual universal service data submissions to the fund administrator, a schedule showing the methodology for excluding costs associated with the acquired access lines from costs associated with their pre-acquisition study areas.

39. IT IS FURTHER ORDERED, pursuant to sections 1, 4(i), 5(c), 201, and 202 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 155(c), 201, and 202, and sections 0.91, 0.291, 1.3, and 61.43 of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 61.43, that Citizens Telecommunications Company of North Dakota SHALL ADJUST its price cap indices in its annual price cap filing to reflect cost changes resulting from this transaction, consistent with this Order.

## FEDERAL COMMUNICATIONS COMMISSION

Carol E. Matthey  
Deputy Chief  
Wireline Competition Bureau

**APPROVED**

DATE: 5-8-02  
KME

MOTION

May 8, 2002

Polar Telecommunications, Inc.  
Local Exchange  
Public Convenience & Necessity

Case No. PU-1727-02-56

I move the Commission bill Polar Telecommunications, Inc. for costs incurred to date in Case No. PU-1727-02-56, Polar Telecommunications, Inc., Local Exchange, Public Convenience & Necessity.



**Public Service Commission**  
State of North Dakota

COMMISSIONERS

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May 8, 2002

David Dunning  
Polar Telecommunications Inc  
PO Box T  
Park River ND 58270

RE: Case No. PU-1727-02-56  
Polar Telecommunications, Inc.  
Local Exchange  
Public Convenience & Necessity

Enclosed is a copy of the statement approved at the May 8, 2002 Public Service Commission meeting for the expenses incurred to date in Case No. PU-1727-02-56.

Under N.D.C.C. 49-21-01.7, these expenses are billed through the Valuation Fund and must be paid for by the telecommunications company involved.

Please make your check payable to the *Public Service Commission*.

Sincerely,

Gloria Geiger  
Admin Staff Officer  
701-328-2401

Enc.

c: Michael Bosh  
Pringle & Herigstad  
PO Box 1000  
Minot ND 58702-1000

## Billing Statement

May 8, 2002

Polar Telecommunications, Inc.  
Local Exchange  
Public Convenience & Necessity

Case No. PU-1727-02-56

### Bill To:

Polar Telecommunications, Inc. ....\$67.24 \*

\* 1/6 of total \$403.41

### Expenses Incurred to Date:

Advertising Costs \$67.24

### Send Payment and a Copy of this Statement To:

Public Service Commission  
600 E Boulevard Ave Dept 408  
Bismarck ND 58505-0480

Federal Tax ID 45-0309764



Public Service Commission  
State of North Dakota

COMMISSIONERS

Susan E. Wefald, President  
Leo M. Reinbold  
Anthony T. Clark

Executive Secretary  
Jon H. Mielke

600 E Boulevard Ave. Dept. 408  
Bismarck, North Dakota 58505-0480  
web: www.psc.state.nd.us  
e-mail: sab@oracle.psc.state.nd.us  
TDD 800-366-6888  
Fax 701-328-2410  
Phone 701-328-2400

May 1, 2002

Katherine Schroder  
Chief, Telecommunications Access Policy Division  
Wireline Competition Bureau  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C., 20554

Re: Request for Waivers in Connection with the Sale of Certain Exchanges from Citizens Telecommunications Company of North Dakota to Dickey Rural Access, Inc., Red River Telecom, Inc., and Polar Telecommunications, Inc.

Dear Ms. Schroder:

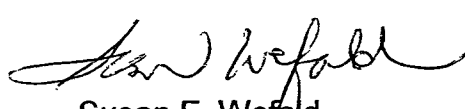
On May 1, 2002, the North Dakota Public Service Commission (Commission) approved the applications for certificates of public convenience and necessity filed by Dickey Rural Access, Inc., Red River Telecom, Inc., and Polar Telecommunications, Inc. in connection with their purchase of certain exchanges in the State of North Dakota from Citizens Telecommunications Company of North Dakota. It is the Commission's understanding that on April 5, 2002, the above-referenced companies also filed a Joint Petition for Expedited Waivers at the Federal Communications Commission (FCC) requesting a waiver of certain FCC rules, including the FCC's study area rule, in connection with the purchase and sale of these exchanges.

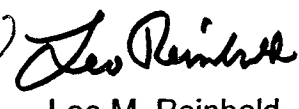
The North Dakota Public Service Commission hereby affirmatively states that it does not object to the request for waiver of the FCC's study area rule for the exchanges to be transferred from Citizens Telecommunications Company of North Dakota to Dickey Rural Access, Inc., Red River Telecom, Inc., and Polar Telecommunications, Inc.

If you have any questions concerning this matter, please contact Jerry Lein at 701 328-1035.

Sincerely,

  
Anthony T. Clark  
Commissioner

  
Susan E. Wefald  
President

  
Leo M. Reinbold  
Commissioner

15 PU-1727-02-56

Pages: 1

Copy of Letter to FCC

by Public Service Commission

05/01/2002

CC: Comm Legal Illona Jerry

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Polar Telecommunications, Inc.  
Designated Eligible Carrier  
Application

Case No. PU-1727-02-55

Polar Telecommunications, Inc.  
Local Exchange  
Public Convenience and Necessity

Case No. PU-1727-02-56

AFFIDAVIT OF SERVICE BY CERTIFIED AND ORDINARY MAIL

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

Sharon Helbling deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **2nd day of May, 2002**, she deposited in the United States Mail, Bismarck, North Dakota, **two** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

Order

The envelopes were addressed as follows:

Michael Bosh  
Pringle & Herigstad  
P O Box 1000  
Minot ND 58702-1000  
Cert. No. 7001 2510 0005 8654 8990

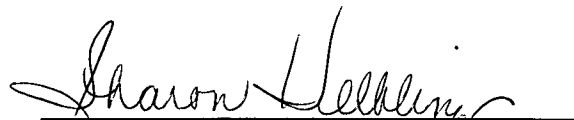
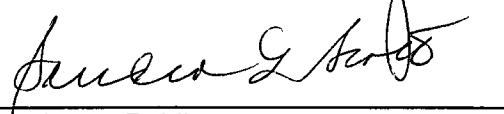
David Dunning  
Polar Telecommunications Inc  
P O Box T  
Park River ND 58270  
Cert. No. 7001 2510 0005 8654 8976

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this **2nd day of May, 2002**.

**SANDRA L. SCOTT**  
Notary Public, STATE OF NORTH DAKOTA  
My Commission Expires JUNE 11, 2004

SEAL

  
\_\_\_\_\_  
  
\_\_\_\_\_  
Notary Public

**APPROVED**

**MOTION**

DATE: 5-1-02  
KMF

**May 1, 2002**

**Polar Telecommunications, Inc.  
Designated Eligible Carrier  
Application**

**Case No. PU-1727-02-55**

**Polar Telecommunications, Inc.  
Local Exchange  
Public Convenience and Necessity**

**Case No. PU-1727-02-56**

I move the Commission adopt the Order and issue certificates of public convenience and necessity to Polar Telecommunications, Inc. to provide incumbent local exchange telecommunications service and be designated as an eligible telecommunications carrier in the Pembina exchange area of North Dakota, Case No. PU-1727-02-55 and PU-1727-02-56.

JRL/sdh

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Polar Telecommunications, Inc.**  
**Designated Eligible Carrier**  
**Application**

**Case No. PU-1727-02-55**

**Polar Telecommunications, Inc.**  
**Local Exchange**  
**Public Convenience and Necessity**

**Case No. PU-1727-02-56**

**ORDER**

**May 1, 2002**

On February 7, 2002, Polar Telecommunications, Inc. (PTI) of Park River, North Dakota filed an application for a certificate of public convenience and necessity to provide facilities-based incumbent local exchange telecommunications services in the exchange of Pembina, North Dakota, Case No. PU-1727-02-56. Incumbent local exchange service in this area is currently provided by Citizens Telecommunications Company of North Dakota (Citizens). The application further requests that PTI's designated geographic service area for purposes of determining universal service obligations be expanded to include the Pembina exchange, Case No. PU-1727-02-55.

On February 14, 2002, the Commission issued a Notice of Opportunity for Hearing, which provided until March 19, 2002 for receiving written comments or hearing requests. No requests for hearing were received. The notice identified the following issues to be considered:

1. Fitness and ability of each applicant to provide service.
2. Adequacy of the proposed service.
3. The technical, financial and managerial ability of each applicant to provide service.
4. Qualification of each applicant under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding.
5. What ETC universal service support area should be designated for each applicant.

N.D.C.C. section 49-03.1-04 includes two issues not indicated above. They are need for service and the effect on other public utilities providing similar service. N.D. Admin. Code section 69-09-05-11(3) provides:

*"In order to implement North Dakota Century Code chapter 49-03.1 consistent with the Telecommunications Act of 1996, issues to be considered in an application for a certificate of public convenience and necessity for a facilities-based provider of telecommunications services are:*

- a. Fitness and ability of the applicant to provide service.*
- b. Adequacy of the proposed service.*
- c. The technical, financial, and managerial ability of the applicant to provide service."*

On April 10, 2001 the Commission discussed the applications at an informal hearing. It was agreed that individual customer notices under N.D. Admin. Code section 69-02-04-01 would be sent notifying each affected customer of a second informal hearing to be held May 1, 2001. A second informal hearing was conducted as scheduled.

Also on April 10, 2002, the Public Service Commission's Director of Accounting filed a memorandum indicating that PTI has the financial ability to provide telecommunications service in the Pembina exchange.

PTI reports that on December 18, 2001, it entered into an agreement with Citizens for the purchase of assets relating to the provision of telecommunications services in the Pembina exchange. Upon closing, Citizens intends to cease providing service and PTI intends to begin providing service in the Pembina exchange.

All subscribers currently served by Citizens in the Pembina exchange will be served by PTI on the effective date of the transaction. Citizens presently serves approximately 635 lines in the Pembina exchange. Citizens intends to relinquish its ETC designation and certificates of public convenience and necessity for the Pembina exchange as of the effective date of the transaction.

PTI is a wholly owned subsidiary of Polar Communications Mutual Aid Corporation, which provides incumbent local exchange service for approximately 9,350 access lines in twenty-one exchanges of North Dakota and Minnesota. PTI has provided incumbent local and exchange access services in the Adams, Edmore, Fordville, Gilby and Lakota exchanges for several years and presently serves approximately 1,650 access lines in these exchanges.

PTI states it has no plans to change any local exchange rates or services at this time. PTI intends to increase exchange access rates in the Pembina exchanges to charge the same access rates that are currently charged in PTI's other exchanges.

The Pembina exchange that is the subject of this sale is currently part of Citizens' study area for purposes of determining universal service obligations. Both Citizens and PTI request that the Commission notify the FCC that the Commission does not object to the study area changes necessary to remove the Pembina exchange from Citizens' study area and add it to PTI's study area.

To be designated as an eligible telecommunications carrier, a carrier must: (1) offer the services that are supported by federal universal service support mechanisms, and offer the services designated by the FCC for such federal support mechanisms for schools, libraries, and health care providers; and (2) advertise the availability of such services and the charges therefore using media of general distribution.

For telecommunications customers, the services designated by the FCC for support by Universal service support mechanisms include 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 for qualifying low-income consumers.

For schools and libraries, the services designated by the FCC for support by universal service support mechanisms include all telecommunications services, internal connections including installation and maintenance, basic conduit access to the Internet including information services that consist of the transmission of information as a common carrier, the transmission of information as part of a gateway to an information service when that transmission does not involve the generation or alteration of the content of information, and electronic mail services. For health care providers, the services supported by universal service support mechanisms include any telecommunications service of a bandwidth up to and including 1.544 Mbps.

PTI affirms it will offer all services that are supported by the federal universal service support mechanisms and will advertise the availability of and charges for those services using media of general distribution throughout all of the Adams, Edmore, Fordville, Gilby, Lakota and Pembina exchanges.

PTI's Lifeline and Link Up offerings will continue to meet the requirements established by the FCC and the North Dakota Lifeline Plan and Link Up Plan in the Pembina exchange.

The Commission finds PTI is fit, able, and has the technical, financial and managerial ability to provide service.

The Commission finds that PTI's proposed service is adequate.

The Commission finds PTI meets the federal requirements for designation as an eligible telecommunications carrier in the Pembina exchange.

## **Order**

The Commission Orders:

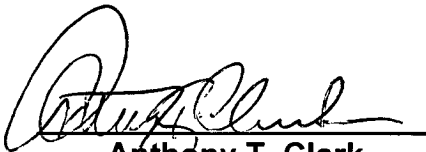
1. The application of Polar Telecommunications, Inc. for a certificate of public convenience and necessity to provide incumbent local exchange telecommunications services in the Pembina exchange area is approved, effective with the date that the asset acquisition transaction is complete. A certificate of public convenience and necessity will be issued upon notification by the applicants that the transaction is complete.

2. Polar Telecommunications, Inc.'s application to expand its designated eligible carrier status is granted, and PTI is designated as an eligible telecommunications carrier in the Pembina exchange area, effective with issuance of a certificate of public convenience and necessity and receipt of any required Part 36 study area waivers from the FCC.

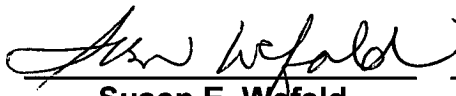
3. Citizens Telecommunications Company of North Dakota's certificates of public convenience and necessity for the Pembina exchange shall be relinquished and cancelled effective with the issuance to PTI of a new certificate of public convenience and necessity for the Pembina exchange.

4. Citizens Telecommunications Company of North Dakota will no longer be designated as an ETC for the Pembina exchange effective upon Citizens relinquishing its certificate of public convenience and necessity for the Pembina exchange and receipt of any required Part 36 study area waivers from the FCC.

**PUBLIC SERVICE COMMISSION**



**Anthony T. Clark**  
Commissioner



**Susan E. Wefald**  
President



**Leo M. Reinbold**  
Commissioner

# INFORMAL AGENDA

1:30 pm

## May 1, 2002

PU-1692-02-53 Red River Telecom, Inc.  
Local Exchange  
Public Convenience and Necessity

PU-1692-02-54 Red River Telecom, Inc.  
Designated Eligible Carrier  
Application

PU-1727-02-55 Polar Telecommunications, Inc.  
Designated Eligible Carrier  
Application

PU- 1727-02-56 Polar Telecommunications, Inc.  
Local Exchange  
Public Convenience and Necessity

PU-2653-02-57 Dickey Rural Access, Inc.  
Designated Eligible Carrier  
Application

PU-2653-02-58 Dickey Rural Access, Inc.  
Local Exchange  
Public Convenience and Necessity

**11 PU-1692-02-53** Pages: 1  
Informal Hearing held  
by Public Service Commission  
05/01/2002 CC: Comm Legal Ilona Jerry .

**11 PU-1727-02-56** Pages: 1  
Informal Hearing held  
by Public Service Commission  
05/01/2002 CC: Comm Legal Ilona Jerry .

**8 PU-1692-02-54** Pages: 1  
Informal Hearing held  
by Public Service Commission  
05/01/2002 CC: Comm Legal PUD (3)

**8 PU-2653-02-57** Pages: 1  
Informal Hearing held  
by Public Service Commission  
05/01/2002 CC: Comm Legal PUD (3)

**8 PU-1727-02-55** Pages: 1  
Informal Hearing held  
by Public Service Commission  
05/01/2002 CC: Comm Legal PUD (3)

**13 PU-2653-02-58** Pages: 1  
Informal Hearing held  
by Public Service Commission  
05/01/2002 CC: Comm Legal Ilona Jerry .

# INFORMAL AGENDA

April 10, 2002

	PU-1264-02-112	North Dakota Telephone Company Custom Calling Services Tariff				
	PU-1692-02-53	Red River Telecom, Inc. Local Exchange Public Convenience and Necessity				
	PU-1692-02-54	Red River Telecom, Inc. Designated Eligible Carrier Application				
	PU-1727-02-55	Polar Telecommunications, Inc. Designated Eligible Carrier Application				
	PU- 1727-02-56	Polar Telecommunications, Inc. Local Exchange Public Convenience and Necessity				
	PU-2653-02-57	Dickey Rural Access, Inc. Designated Eligible Carrier Application				
	PU-2653-02-58	Dickey Rural Access. Inc. Local Exchange Public Convenience	7	<b>PU-1727-02-55</b>	Pages: 1 Informal hearing held by Public Service Commission 04/10/2002 CC: Comm Legal PUD (3)	
4	<b>PU-1264-02-112</b>	Informal hearing held by Public Service Commission 04/10/2002 CC: Comm Legal Illona Pat .	Pages: 1	10	<b>PU-1727-02-56</b>	Pages: 1 Informal hearing held by Public Service Commission 04/10/2002 CC: Comm Legal Illona Jerry .
10	<b>PU-1692-02-53</b>	Informal hearing held by Public Service Commission 04/10/2002 CC: Comm Legal Illona Jerry .	Pages: 1	✓ 7	<b>PU-2653-02-57</b>	Pages: 1 Informal hearing held by Public Service Commission 04/10/2002 CC: Comm Legal PUD (3)
7	<b>PU-1692-02-54</b>	Informal hearing held by Public Service Commission 04/10/2002 CC: Comm Legal PUD (3)	Pages: 1	12	<b>PU-2653-02-58</b>	Pages: 1 Informal hearing held by Public Service Commission 04/10/2002 CC: Comm Legal Illona Jerry .

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Red River Telecom, Inc.**  
**Local Exchange**  
**Public Convenience and Necessity**

**Case No. PU-1692-02-53**

**Polar Telecommunications, Inc.**  
**Local Exchange**  
**Public Convenience and Necessity**

**Case No. PU-1727-02-56**

**Dickey Rural Access, Inc.**  
**Local Exchange**  
**Public Convenience and Necessity**

**Case No. PU-2653-02-58**

**AFFIDAVIT OF SERVICE BY HAND DELIVERY**

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Sharon Helbling** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **10th day of April, 2002**, Illona A. Jeffcoat-Sacco hand delivered photocopies of:

**Staff Financial Memorandum**

To:

Michael Bosh  
Pringle & Herigstad  
P O Box 1000  
Minot ND 58702-1000

Ardon Doran  
Red River Telecom Inc  
P O Box 136  
Abercrombie ND 58001

David Dunning  
Polar Telecommunications Inc  
P O Box T  
Park River ND 58270

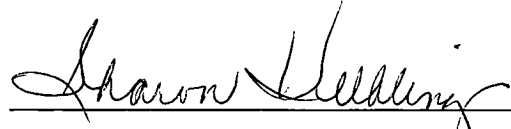
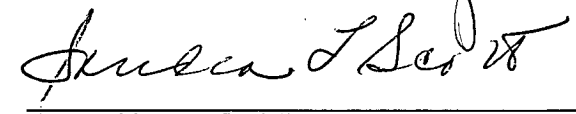
Darren Moser  
Dickey Rural Access Inc  
P O Box 69  
Ellendale ND 58436-0069

Lance Tade  
Citizens Communications  
4 Triad Ctr Ste 200  
Salt Lake City UT 84180

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this **10th day of April, 2002.**

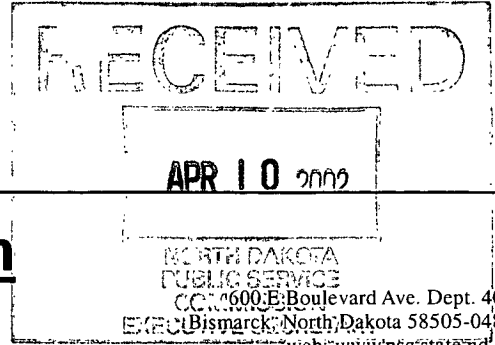
SEAL

  
\_\_\_\_\_  
  
\_\_\_\_\_  
Notary Public

**SANDRA L. SCOTT**  
Notary Public, STATE OF NORTH DAKOTA  
My Commission Expires JUNE 11, 2004



Public Service Commission  
State of North Dakota



**Memorandum**

COMMISSIONERS

Susan E. Wefald, President  
Leo M. Reinbold  
Anthony T. Clark

Executive Secretary  
Jon H. Mielke

**To:** Jon Mielke  
**From:** Mike Diller *Mike Diller*  
**Date:** April 10, 2002  
**Re:** Polar Telecommunications, Inc.  
Local Exchange PC&N Application  
Case No. PU-1727-02-56

NORTH DAKOTA  
PUBLIC SERVICE  
600 E. Boulevard Ave. Dept. 408  
Bismarck, North Dakota 58505-0480  
web: www.psc.state.nd.us  
e-mail: sab@oracle.psc.state.nd.us  
TDD 800-366-6888  
Fax 701-328-2410  
Phone 701-328-2400

The following is written to provide the commission with a very limited review of this case regarding the applicant's financial ability to provide service. Polar Communications Mutual Aid Corporation ultimately owns Polar Telecommunications, Inc.

The consolidated financial statements filed in the application indicate that Polar Communications Mutual Aid Corporation and Subsidiaries have consolidated stockholder equity of \$22.9 million for the year ended 2001.

Based on its review, staff concludes that the applicant has access to sufficient equity to provide service in North Dakota.

Staff sees no reason to deny this application.

In accordance with the Commission's wishes, staff will serve this document on the applicant.

# FAX.....COVER SHEET

## Polar Communications Corp.

P.O. Box 270  
Park River, ND 58270

APR 10 2002

STATE OF NORTH DAKOTA  
PUBLIC SERVICE  
COMMISSION  
1500 STATE OFFICE BLDG

DATE: 10 Apr. '02

COMPANY NAME:	PSC
CONTACT NAME:	Mike Diller
FAX NUMBER:	701-328-2410

FROM (NAME):	Judy
SUBJECT:	Balance Sheet for Polar

NUMBER OF PAGES INCLUDING COVER SHEET: 2

IF THERE IS A PROBLEM WITH THIS TRANSMISSION,  
PLEASE CALL 701-284-7221.

POLAR FAX NUMBER - 701-284-7277

RECEIVED

NORTH DAKOTA 527 POLAR  
POLAR COMMUNICATIONS AND SUBSIDIARIES  
CONSOLIDATED BALANCE SHEET  
As of December 31, 2001 and 2000

APR 10 2002

2001 NORTH DAKOTA 527 POLAR

POLAR COMMUNICATIONS AND SUBSIDIARIES

CONSOLIDATED BALANCE SHEET

## ASSETS

## CURRENT ASSETS:

Cash and Cash Equivalents	\$ 4,386,310	\$ 4,678,306
Investment in Marketable Securities - Available for Sale	542,258	3,429,992
Telecommunications Accounts Receivable (Net)	93,240	123,800
Other Accounts Receivable	1,071,853	1,221,071
Interest Receivable	399	48,674
Income Taxes Receivable	120,000	87,537
Material and Supplies	2,637,616	1,502,286
Prepayments	24,339	2,942
Total Current Assets	<u>\$ 8,876,015</u>	<u>\$ 11,094,608</u>

## INVESTMENTS AND NONCURRENT ASSETS:

Investments in Affiliated Companies	\$ 10,079,400	\$ 9,424,257
Investments in Nonaffiliated Companies	207,367	209,825
Non regulated Investment - CATV	2,626,087	2,424,889
Non regulated Investment - Customer Premise Equipment	284,105	313,326
Sinking Funds - Deferred Compensation	27,793	39,538
Deferred Charges	2,934,290	32,584
Other Investments	1,522,093	1,113,261
Total Investments and Noncurrent Assets	<u>\$ 17,681,135</u>	<u>\$ 13,557,680</u>

## TELECOMMUNICATIONS PLANT:

In Service	\$ 45,936,882	\$ 40,545,685
Plant Adjustment	1,422,838	1,422,838
Goodwill	395,626	395,626
Under Construction	153,207	3,829,765
Total Investment in Plant	<u>\$ 47,908,553</u>	<u>\$ 46,193,914</u>
Less Accumulated Depreciation and Amortization	<u>(30,171,088)</u>	<u>(28,690,880)</u>
Net Plant	<u>\$ 17,737,465</u>	<u>\$ 17,503,034</u>

## TOTAL ASSETS

	<u>\$ 44,294,615</u>	<u>\$ 42,155,322</u>
--	----------------------	----------------------

## LIABILITIES AND EQUITIES

## CURRENT LIABILITIES:

Current Maturities of Long-Term Debt	\$ 1,298,670	\$ 1,052,610
Current Portion of Post retirement Benefit Obligation	65,000	55,000
Accounts Payable	2,275,666	5,475,376
Advance Billings and Payments	39,629	39,629
Income Taxes Accrued	455,116	
Other Taxes Accrued	100,400	115,038
Accrued Compensated Absences	574,271	529,279
Accrued Interest	83,492	26,429
Total Current Liabilities	<u>\$ 4,892,244</u>	<u>\$ 7,293,361</u>

## LONG-TERM DEBT, NET OF CURRENT MATURITIES

	<u>\$ 14,813,738</u>	<u>\$ 10,135,659</u>
--	----------------------	----------------------

## DEFERRED CREDITS:

Income Taxes	\$ 229,480	\$ 652,567
Deferred Compensation	27,793	39,538
Accumulated Provision for Pensions and Benefits	1,414,236	1,055,100
Total Deferred Credits	<u>\$ 1,671,509</u>	<u>\$ 1,747,205</u>

## EQUITIES

Patronage Capital	\$ 13,434,598	\$ 14,598,842
Retained Earnings of Subsidiaries	3,692,661	3,017,525
Equity in Earnings of Affiliated Companies	5,291,166	4,285,678
Other Equities	394,059	379,334
Accumulated other Comprehensive Income	104,640	697,718
Total Equities	<u>\$ 22,917,124</u>	<u>\$ 22,979,097</u>

## TOTAL LIABILITIES AND EQUITIES

	<u>\$ 44,294,615</u>	<u>\$ 42,155,322</u>
--	----------------------	----------------------

See Accompanying Notes to Consolidated Financial Statements

# Affidavit of Publication

State of North Dakota )  
 )  
County of Burleigh )

MAR 13

Laurie Thiel, being duly sworn, state as follows:

1. I am the designated agent, under the provisions and for the purposes of, Section 31-04-06, NDCC, for the newspapers listed on the attached exhibits.

2. The newspapers listed on the exhibits published the advertisement of:

Red River Telecom, 1 time(s)  
as required by law or ordinance.

3. All of the listed newspapers are legal newspapers in the State of North Dakota and, under the provisions of Section 46-05-01, NDCC, are qualified to publish any public notice or any matter required by law or ordinance to be printed or published in a newspaper in North Dakota.

Signed: Laurie Thiel

Subscribed and sworn to before me this 4th day of March A.D. 2002

Laurie Schaffer

LAURIE SCHAFFER  
Notary Public, STATE OF NORTH DAKOTA  
My Commission Expires DEC. 1, 2005

6 **PU-1727-02-55** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal PUD (3)

6 **PU-1727-02-56** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal Ilona Jerry

7 **PU-1692-02-53** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal Ilona Jerry

6 **PU-2653-02-57** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal PUD (3)

6 **PU-1692-02-54** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal PUD (3)

9 **PU-2653-02-58** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal Ilona Jerry

# North Dakota Advertising Service, Inc.

1435 Interstate Loop • Bismarck, ND 58501-0567 • PHONE (701) 223-6397 • FAX (701) 223-8185 • www.ndna.com

## INVOICE

Date: 03/07/2002

Page: 1

To:

MAR 13

JON H. MIELKE  
PUBLIC SERVICE COMMISSION  
STATE CAPITOL  
BISMARCK ND 58505

Client: Public Service Commission

Order: 02024PP0

Newspaper		Date	Inches	Page#	Rate	Amount
Cavalier Chronicle	Red River	02/20/2002	1.00	[Special]	71.82	71.82
Fargo, The Forum	Red River	02/25/2002	1.00	[Special]	78.00	78.00
Grand Forks Herald	Red River	02/19/2002	1.00	[Special]	65.88	65.88
Lisbon Ransom County Gazette	Red River	02/25/2002	1.00	[Special]	61.65	61.65
Milnor The Teller	Red River	02/22/2002	1.00	[Special]	61.20	61.20
Wahpeton Daily News	Red River	02/19/2002	1.00	[Special]	64.86	64.86
*** ADVERTISING TOTAL						403.41
*** TOTAL DUE						403.41

**7 PU-1692-02-53** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal Ilona Jerry .

**6 PU-1692-02-54** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal PUD (3)

**6 PU-1727-02-55** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal PUD (3)

**6 PU-1727-02-56** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal Ilona Jerry .

**6 PU-2653-02-57** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal PUD (3)

**9 PU-2653-02-58** Pages: 1  
Affidavit of Publication  
by North Dakota Advertising Service, Inc.  
03/13/2002 CC: Comm Legal Ilona Jerry .

This invoice is due and payable upon receipt. Unpaid items over 30 days from invoice date are subject to a finance charge. The finance charge is computed by a periodic rate of 1 3/4 percent per month (or a minimum charge of 50 cents for balances of under \$50), which is an annual percentage rate of 21 percent.  
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STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Red River Telecom, Inc. Case No. PU-1692-02-53  
Local Exchange  
Public Convenience and Necessity

Red River Telecom, Inc. Case No. PU-1692-02-54  
Designated Eligible Carrier  
Application

Polar Telecommunications, Inc. Case No. PU-1727-02-55  
Designated Eligible Carrier  
Public Convenience and Necessity

Polar Telecommunications, Inc. Case No. PU-1727-02-56  
Local Exchange  
Public Convenience and Necessity

Dickey Rural Access, Inc. Case No. PU-2653-02-57  
Designated Eligible Carrier  
Public Convenience and Necessity

Dickey Rural Access, Inc. Case No. PU-2653-02-58  
Local Exchange  
Public Convenience and Necessity

**AFFIDAVIT OF SERVICE BY CERTIFIED AND ORDINARY MAIL**

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Sharon Helbling** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **15th day of February, 2002**, she deposited in the United States Mail, Bismarck, North Dakota, **one** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

**Notice of Opportunity for Hearing**

The envelopes were addressed as follows:

Michael Bosh  
Pringle & Herigstad  
P O Box 1000  
Minot ND 58702-1000  
Cert. No. 7099 3220 0002 8483 1563

Ardon Doran  
Red River Telecom Inc  
P O Box 136  
Abercrombie ND 58001  
Cert. No. 7099 3220 0002 8483 1570

5

PU-1727-02-56

Pages: 4

Affidavits of Service

by Public Service Commission

02/15/2002

CC: Comm Legal Ilona Jerry .

David Dunning  
Polar Telecommunications Inc  
P O Box T  
Park River ND 58270

**Cert. No. 7099 3220 0002 8483 1587**

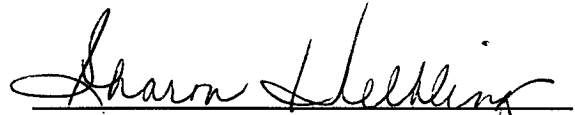
Darren Moser  
Dickey Rural Access Inc  
P O Box 69  
Ellendale ND 58436-0069

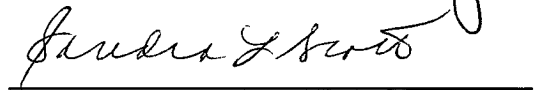
**Cert. No. 7099 3220 0002 8483 1594**

Each address shown is the respective addressee's last reasonably ascertainable post office address.

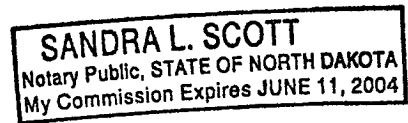
Subscribed and sworn to before me  
this **15th day of February, 2002.**

SEAL





Notary Public



STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Red River Telecom, Inc. Case No. PU-1692-02-53  
Local Exchange  
Public Convenience and Necessity

Red River Telecom, Inc. Case No. PU-1692-02-54  
Designated Eligible Carrier  
Application

Polar Telecommunications, Inc. Case No. PU-1727-02-55  
Designated Eligible Carrier  
Public Convenience and Necessity

Polar Telecommunications, Inc. Case No. PU-1727-02-56  
Local Exchange  
Public Convenience and Necessity

Dickey Rural Access, Inc. Case No. PU-2653-02-57  
Designated Eligible Carrier  
Public Convenience and Necessity

Dickey Rural Access, Inc. Case No. PU-2653-02-58  
Local Exchange  
Public Convenience and Necessity

**AFFIDAVIT OF SERVICE BY ORDINARY AND ELECTRONIC MAIL**

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Sharon Helbling** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **15th day of February, 2002**, she deposited in the United States Mail, Bismarck, North Dakota, envelopes by first class mail, fully prepaid, securely sealed, each containing a photocopy of:

**Notice of Opportunity for Hearing**

The envelopes were addressed as follows:

***See Attached List***

Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this 15th day of February, 2002.

*Sharon Hedding*

*Sandra L. Scott*

Notary Public

SEAL

**SANDRA L. SCOTT**  
Notary Public, STATE OF NORTH DAKOTA  
My Commission Expires JUNE 11, 2004

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Qwest Communications Corporation  
4250 Fairfax Dr  
Arlington VA 22203

Charles Steese  
Qwest Corporation  
1801 California St Ste 5100  
Denver CO 80202

Gene Sloan  
Reservation Telephone Cooperative  
Parshall ND 58770

Skyland Technologies Inc  
P O Box 5237  
Helena MT 59604-5237

Andrew Jones  
Sprint  
8140 Ward Pkwy Flr 5E  
Kansas City MO 64114

Randy Burckhard  
SRT Communications Inc  
P O Box 789  
Minot ND 58702-0789

Jack Medaris  
Telco Partners Inc  
484 Norristown Rd Ste 123  
Blue Bell PA 19422

Tele-Tech Inc  
2900 W 11th St  
Sioux Falls SD 57104-3660

Kenneth Carlson  
Turtle Mountain Communications  
PO Box 729  
Langdon ND 58249-0729

Sam Billingsley  
United States Advanced Network Inc  
3080 Northwoods Cir  
Norcross GA 30071-1562

Christina Tygielski  
Universal Access Inc  
Sears Tower 233 S Wacker Dr Ste 600  
Chicago IL 60606-6307

Dean Polk  
RCC Network Inc  
PO Box 2000  
Alexandria MN 56308-2000

Sandra Adams  
NewPath Holdings Inc  
4364 114th St  
Des Moines IA 50322  
Lisa Dabkowski  
SNET America Inc  
6 Devine St 1st Fl  
North Haven CT 06743

SRT Communications Inc  
P O Box 789  
Minot ND 58702-0789

Harris Saele  
T P C Inc  
PO Box 180  
Devils Lake ND 58301-0180

Al Bosch  
Tele-Beep Company  
PO Box 7072  
Bismarck ND 58502-7072

T-Netix Inc  
P O Box 701028  
Dallas TX 75370-1028

Giuseppe Vitale  
UKI Communications Inc  
500 N Rainbow Blvd Ste 300  
Las Vegas NV 89107

Kenneth Carlson  
United Telephone Mut Aid Corp  
Langdon ND 58249

Dennis Houston  
Universal Network Services of ND  
1572 North Batavia St Ste 1A  
Orange CA 92867

Val-Ed Joint Venture LL.  
150 2nd St SW  
Perham MN 56573

West River Coop Telephone Co  
P O Box 39  
Bison SD 57620-0039

Doris Cooper  
West River Long Distance Co  
PO Box 467  
Hazen ND 58545-0467

Western CLEC Corporation  
3650 131st Ave SE #400  
Bellevue WA 98006

Z-Tel Communications Inc  
601 S Harbour Island Blvd Ste 220  
Tampa FL 33602-5925

Randy Houdek  
Venture Communications Inc  
PO Box 157  
Highmore SD 57345-0157

Darrell Henderson  
West River Cooperative Telephone  
Company  
PO Box 39  
Bison SD 57620-0039  
Mick Grosz  
West River Telecomm Coop  
PO Box 467  
Hazen ND 58545-0467

Carolyn Fodor  
Winstar  
100 Galleria #111  
Southfield MI 48034

**Helbling, Sharon D.**

---

**From:** Helbling, Sharon D.  
**Sent:** Friday, February 15, 2002 11:34 AM  
**To:** ndna (E-mail)  
**Subject:** Attached Notice of Opportunity for Hearing

**Colleen  
North Dakota Newspaper Association**

**Earlier this morning I sent you an e-mail to publish several notices in the ten North Dakota daily newspapers. All are OK, except the Notice of Opportunity for Hearing listing six different cases. That notice should be published as a legal publication in the following official county and daily newspapers, and run it as a "News Item Only" article as well:**

**Richland County  
Pembina County  
Sargent County  
Ransom County  
Fargo Forum  
Grand Forks Herald  
Wahpeton Daily News**

**Please send the bill to the Public Service Commission, along with a tear sheet for billing purposes. If you have any questions, please call me at 328-4076.**

**Thank you. Sorry for my error.**

**Sharon Helbling  
Public Utilities Division**



3.doc

**4**      **PU-1727-02-56**      Pages: 1

Notice e-mailed to NDNA requesting  
publication  
by Public Service Commission

02/15/2002

CC: Comm Legal Ilona Jerry .

**Helbling, Sharon D.**

---

**From:** Helbling, Sharon D.  
**Sent:** Friday, February 15, 2002 8:14 AM  
**To:** ndna (E-mail)  
**Subject:** Attached Notice of Opportunity for Hearing, and Notice of Opportunity to File Written Comments

**Colleen  
North Dakota Newspaper Association**

**Colleen,**

**Would you please have the attached Notice of Opportunity for Hearing and the Notice of Opportunity to File Written Comments published as legal publications in the next issue of the ten North Dakota daily newspapers, and run them as "News Item Only" articles as well.**

**Please send the bill to the Public Service Commission, along with a tear sheet for billing purposes.**

**If you have any questions, call me at 701-328-4076.**

**Thank you.**

**Sharon Helbling  
Public Utilities Division**



1.doc



1.doc

**MOTION**

**February 14, 2002**

**APPROVED**

DATE: 2-14-02  
KMF

**Red River Telecom, Inc.  
Local Exchange  
Public Convenience and Necessity**

**Case No. PU-1692-02-53**

**Red River Telecom, Inc.  
Designated Eligible Carrier  
Application**

**Case No. PU-1692-02-54**

**Polar Telecommunications, Inc.  
Designated Eligible Carrier  
Public Convenience and Necessity**

**Case No. PU-1727-02-55**

**Polar Telecommunications, Inc.  
Local Exchange  
Public Convenience and Necessity**

**Case No. PU-1727-02-56**

**Dickey Rural Access, Inc.  
Designated Eligible Carrier  
Public Convenience and Necessity**

**Case No. PU-2653-02-57**

**Dickey Rural Access, Inc.  
Local Exchange  
Public Convenience and Necessity**

**Case No. PU-2653-02-58**

I move the Commission issue a Notice of Opportunity for Hearing in the captioned applications for certificates of public convenience and necessity to provide incumbent local exchange telecommunications service and for designation as eligible telecommunications carriers as follows: Red River Telecom Inc. for the Fairmount and Wyndmere exchanges; Polar Telecommunications, Inc. for the Pembina exchange; and Dickey Rural Access, Inc. for the Gwinner and Lisbon exchanges.

JRL/sdh

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Red River Telecom, Inc. Case No. PU-1692-02-53**  
**Local Exchange**  
**Public Convenience and Necessity**

**Red River Telecom, Inc. Case No. PU-1692-02-54**  
**Designated Eligible Carrier**  
**Application**

**Polar Telecommunications, Inc. Case No. PU-1727-02-55**  
**Designated Eligible Carrier**  
**Public Convenience and Necessity**

**Polar Telecommunications, Inc. Case No. PU-1727-02-56**  
**Local Exchange**  
**Public Convenience and Necessity**

**Dickey Rural Access, Inc. Case No. PU-2653-02-57**  
**Designated Eligible Carrier**  
**Public Convenience and Necessity**

**Dickey Rural Access, Inc. Case No. PU-2653-02-58**  
**Local Exchange**  
**Public Convenience and Necessity**

**NOTICE OF OPPORTUNITY FOR HEARING**

**February 14, 2002**

On February 7, 2002, Red River Telecom, Inc. of Abercrombie, North Dakota, filed an application for certificates of public convenience and necessity to provide facilities-based incumbent local exchange telecommunications services in the exchanges of Fairmount and Wyndmere, North Dakota, Case No. PU-1692-02-53. Red River Telecom, Inc. also requests designation as an Eligible Telecommunications Carrier (ETC) for receiving federal universal service support for the Fairmount and Wyndmere exchanges, Case No. PU-1692-02-54.

On February 7, 2002, Polar Telecommunications, Inc. of Park River, North Dakota filed an application for a certificate of public convenience and necessity to provide facilities-based incumbent local exchange telecommunications services in the exchange of Pembina, North Dakota, Case No. PU-1727-02-56. Polar Telecommunications, Inc. also requests ETC designation for the Pembina exchange, Case No. PU-1727-02-55.

**2**

**PU-1727-02-56**

Pages: 2

Notice of Opportunity for Hearing

by Public Service Commission

02/14/2002

CC: Comm Legal Ilona Jerry

Also on February 7, 2002, Dickey Rural Access, Inc. of Ellendale, North Dakota filed an application for certificates of public convenience and necessity to provide facilities-based incumbent local exchange telecommunications services in the exchanges of Gwinner and Lisbon, North Dakota, Case No. PU-2653-02-58. Dickey Rural Access, Inc. also requests ETC designation for the Gwinner and Lisbon exchanges, Case No. PU-2653-02-57.

Each applicant reports entering into an agreement for the purchase of assets of Citizens Telecommunications Company of North Dakota (CTC) relating to the provision of telecommunications services in the respective exchanges for which each applicant requests authority. The applicants state that as of the closing date of the transactions CTC intends to cease providing service in these exchanges and each applicant intends to begin providing service in each respective exchange.


The issues to be considered in these matters are:

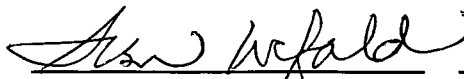
1. Fitness and ability of each applicant to provide service.
2. Adequacy of the proposed service.
3. The technical, financial and managerial ability of each applicant to provide service.
4. Qualification of each applicant under the Telecommunications Act of 1996, Section 214(e) for designation as an ETC eligible to receive federal universal service funding.
5. What ETC universal service support area should be designated for each applicant.

Those interested are invited to comment on the applications in writing. Persons desiring a hearing must file a written request identifying their interest in the proceeding(s) and the reasons for requesting a hearing. Comments and requests for hearings must be received by **March 19, 2002**. If deemed appropriate, the Commission can determine these matters without hearings.

For more information contact the Public Service Commission, State Capitol, Bismarck, North Dakota 58505, 701-328-2400; or Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials please notify Jon Mielke, Executive Secretary.

#### PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
Anthony T. Clark  
Commissioner

  
\_\_\_\_\_  
Susan E. Wefald  
President

\_\_\_\_\_  
"ABSENT"  
Leo M. Reinbold  
Commissioner



LAW OFFICES OF

**PRINGLE & HERIGSTAD, P.C.**

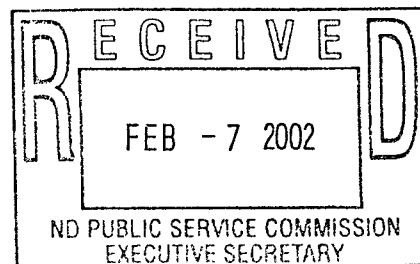
BREMER BANK BUILDING  
20 SW 1ST STREET  
POST OFFICE BOX 1000  
MINOT, NORTH DAKOTA 58702  
(701) 852-0381  
FAX (701) 857-1361  
E-mail: pringle@ndak.net

ROGER O. HERIGSTAD  
MARK F. PURDY  
DONALD A. NEGAARD  
JAMES E. NOSTDAHL  
CAROL K. LARSON  
DAVID J. HOGUE  
REED A. SODERSTROM  
MARK R. HAYS

MICHAEL A. BOSH  
BRENT M. OLSON  
DENISE C. HAYS  
DEBRA L. HOFFARTH  
OF COUNSEL  
HERBERT L. MESCHKE  
JAN. M. SEBBY  
RETIRED  
THOMAS A. WENTZ

February 6, 2002

Jon H. Mielke, Executive Secretary  
Public Service Commission  
600 E. Boulevard Ave., Dept. 408  
Bismarck, ND 58505-0480



**POLAR TELECOMMUNICATIONS, INC.**

Please find enclosed for filing the original and seven copies of the Application of Polar Telecommunications, Inc. for a certificate of public convenience and necessity and expansion of its eligible telecommunications carrier designated geographical service area, and related evidentiary Affidavit.

Also enclosed is a Certificate of Good Standing issued by the North Dakota Secretary of State's Office.

If you have any questions, please call.

Very truly yours,

Michael A. Bosh  
Pringle & Herigstad, P.C.

jb  
encs.

cc/encs: David L. Dunning  
Kevin Saville  
Aloa Stevens  
Jim Howard

1 PU-1727-02-56

Pages: 16

Local Exchange PC&N filing

by Polar Telecommunications, Inc. by Michael A Bosh,

02/07/2002

CC: Comm Legal Illona Jerry .

**STATE OF NORTH DAKOTA**

**PUBLIC SERVICE COMMISSION**

**Application of Polar Telecommunications, Inc.  
for Certificate of Public Convenience and Necessity  
and Expansion of Polar Telecommunications, Inc.'s  
Eligible Telecommunications Carrier Designated  
Geographical Service Area**

**Case No. PU-\_\_\_\_\_**

**APPLICATION**

**I.**

Polar Telecommunications, Inc. (hereinafter, "PTI"), a North Dakota business corporation, under Certificates of Public Convenience and Necessity issued by the North Dakota Public Service Commission (hereinafter, the "Commission"), is engaged in the business of providing local exchange telecommunications service, exchange access and other telecommunications activities in the following exchanges, which shall hereinafter be collectively referred to as the "PTI Service Area:" Adams, Edmore, Fordville, Gilby, and Lakota. PTI is a wholly-owned subsidiary of Polar Communications Mutual Aid Corporation.

**II.**

Citizens Telecommunications Company of North Dakota (hereinafter, "CTC"), a Delaware corporation, under a Certificate of Public Convenience and Necessity issued by the Commission, is engaged in the business of providing local exchange telecommunications service, exchange access, and other telecommunications services in the following exchange: Pembina (PC&N No. 4599). CTC has approximately 635 access lines in the Pembina exchange.

**III.**

On December 18, 2001, CTC and PTI entered into a purchase agreement for the purchase and sale of CTC's current assets and facilities relating to the provision of local exchange telecommunications service, exchange access, and other telecommunications services in the Pembina exchange. As of the closing date of said transaction (anticipated for the spring of 2002) (hereinafter, the "Closing Date"), CTC intends to cease doing business as a provider of local exchange telecommunications service and exchange access in the Pembina exchange. In addition, as of the Closing Date, PTI intends to engage in the business of providing local exchange telecommunications service, exchange access, and other telecommunications activities in the Pembina exchange.

IV.

CTC wishes to relinquish its Certificate of Public Convenience and Necessity No. 4599 for the Pembina exchange, effective as of the Closing Date.

V.

PTI has been designated by the Commission as an eligible telecommunications carrier to receive universal service support under §§ 214 and 254 of the federal Communications act of 1934, as amended by the federal Telecommunications Act of 1996 (hereinafter, the "1996 Act"). PTI's eligible telecommunications carrier designated geographical service area for the purpose of determining universal service obligations and support mechanisms under the 1996 Act is currently the PTI Service Area. Effective as of the Closing Date, CTC wishes to contract its designated geographical service area to no longer include the Pembina exchange, and PTI wishes to expand its designated geographical service area to include the Pembina exchange, for purposes of determining universal service obligations and support mechanisms under the 1996 Act.

VI.

All subscribers served by CTC in the Pembina exchange prior to the Closing Date will be served by PTI beginning on the Closing Date. PTI intends to charge the same rates for basic local service in the Pembina exchange as Citizens is currently charging its subscribers in the Pembina exchange.

VII.

There is a clear need for continuing quality telecommunications services in the Pembina exchange. The relinquishment of CTC's Certificate of Public Convenience and Necessity will have no effect on other public utilities providing similar services, as there are no other public utilities providing similar services in the Pembina exchange. PTI, having served the exchanges of Adams, Edmore, Fordville, Gilby, and Lakota for many years, has demonstrated that it has the technical, financial, and managerial fitness and ability to provide adequate essential and nonessential telecommunications services in the Pembina exchange. The technical fitness and ability of PTI to provide services in the Pembina exchange will be enhanced and facilitated by PTI's purchase of the assets that CTC is currently using to provide such services in the Pembina exchange. The provision of adequate essential and nonessential telecommunications service in the Pembina exchange will be facilitated and supported by the full current technical and financial capabilities of PTI, and by the full current technical and financial capabilities of PTI's parent, Polar Communications Mutual Aid Corporation.

## VIII.

Beginning on the Closing Date, PTI will offer all services that are supported by federal universal service support mechanisms under § 254(c) of the 1996 Act and 47 C.F.R. §§ 54.101 and 54.401, using a combination of its own facilities and resale of other carriers' services, and will advertise the availability of such services and the charges therefore using media of general distribution, throughout all of the following exchanges: Adams, Edmore, Fordville, Gilby, Lakota, and Pembina.

## IX.

The Commission has: (1) authority under N.D.C.C. § 49-21-01.7(7) to act upon applications dealing with certificates of public convenience and necessity; and (2) authority under N.D.C.C. § 49-21-01.7(13) to designate geographic service areas for designated eligible telecommunications carriers for the purpose of determining universal service obligations and support mechanisms under the 1996 Act.

## X.

WHEREFORE, CTC hereby applies to: (1) contract its designated geographical service area to no longer include the Pembina exchange, pursuant to N.D.C.C. § 49-21-01.7(13), effective as of the Closing Date; and (2) relinquish its Certificate of Public Convenience and Necessity No. 4599, effective as of the Closing Date, pursuant to N.D.A.C. § 69-09-05-11(6).

## XI.

WHEREFORE, PTI hereby applies to the Commission, pursuant to N.D.C.C. Ch. 49-03.1 and N.D.A.C. § 69-09-05-11, for a Certificate of Public Convenience and Necessity for the Pembina exchange, effective as of the Closing Date.

## XII.

WHEREFORE, PTI hereby applies to the Commission for expansion of its designated geographic service area for the purpose of determining universal service obligations and support mechanisms under the 1996 Act, effective as of the Closing Date, to also include the Pembina exchange.







Date, PTI intends to engage in the business of providing local exchange telecommunications service, exchange access, and other telecommunications activities in the Pembina exchange.

### III.

PTI has been designated by the Commission as an eligible telecommunications carrier to receive universal service support under §§ 214 and 254 of the federal Communications act of 1934, as amended by the federal Telecommunications Act of 1996 (hereinafter, the "1996 Act"). PTI's eligible telecommunications carrier designated geographical service area for the purpose of determining universal service obligations and support mechanisms under the 1996 Act is currently the PTI Service Area. Effective as of the Closing Date, CTC wishes to contract its designated geographical service area to no longer include the Pembina exchange, and PTI wishes to expand its designated geographical service area to include the Pembina exchange, for purposes of determining universal service obligations and support mechanisms under the 1996 Act.

### IV.

All subscribers served by CTC in the Pembina exchange prior to the Closing Date will be served by PTI beginning on the Closing Date. PTI intends to charge the same rates for basic local service in the Pembina exchange as Citizens is currently charging its subscribers in the Pembina exchange.

### V.

There is a clear need for continuing quality telecommunications services in the Pembina exchange. The relinquishment of CTC's Certificate of Public Convenience and Necessity will have no effect on other public utilities providing similar services, as there are no other public utilities providing similar services in the Pembina exchange. PTI, having served the exchanges of Adams, Edmore, Fordville, Gilby, and Lakota for many years, has demonstrated that it has the technical, financial, and managerial fitness and ability to provide adequate essential and nonessential telecommunications services in the Pembina exchange. The technical fitness and ability of PTI to provide services in the Pembina exchange will be enhanced and facilitated by PTI's purchase of the assets that CTC is currently using to provide such services in the Pembina exchange. The provision of adequate essential and nonessential telecommunications service in the Pembina exchange will be facilitated and supported by the full current technical and financial capabilities of PTI, and by the full current technical and financial capabilities of PTI's parent, Polar Communications Mutual Aid Corporation.

VI.

Beginning on the Closing Date, PTI will offer all services that are supported by federal universal service support mechanisms under § 254(c) of the 1996 Act and 47 C.F.R. §§ 54.101 and 54.401, using a combination of its own facilities and resale of other carriers' services, and will advertise the availability of such services and the charges therefore using media of general distribution, throughout all of the following exchanges: Adams, Edmore, Fordville, Gilby, Lakota, and Pembina.

VII.


As required by N.D.A.C. § 69-09-05-11(2): attached as Exhibit "A," and hereby incorporated by reference, is a copy of a balance sheet for PTI for the year 2000; attached as Exhibit "B," and hereby incorporated by reference, is a copy of an income statement for PTI for the year 2000; attached as Exhibit "C," and hereby incorporated by reference, is a copy of a balance sheet for PTI through the quarter ending September 30, 2001; and attached as Exhibit "D," and hereby incorporated by reference, is a copy of an income statement for PTI through the quarter ending September 30, 2001; an independent accountant's financial opinion is not available at this time.

The affiant is the General Manager of Applicant Polar Telecommunications, Inc., and affirms the truth of the foregoing statement of facts based on his first-hand knowledge.

Dated this 5<sup>th</sup> day of February, 2002.

  
\_\_\_\_\_  
David L. Dunning

SUBSCRIBED AND SWORN to before me this 5<sup>th</sup> day of February, 2002

  
\_\_\_\_\_  
Notary Public  
For the State of North Dakota  
My commission expires: \_\_\_\_\_

**JUDITH MYRVIK**  
**NOTARY PUBLIC, STATE OF NORTH DAKOTA**  
**MY COMMISSION EXPIRES SEPT. 10, 2003**

Polar Telecommunications Inc.  
Balance Sheet  
December 31, 2000

Exhibit A

ASSETS

Cash and Equivalents	\$51,788.20
Temporary Investments	1,176,747.99
Telephone Acct Rec ( Less Reserve)	20,619.29
Other Accounts Receivable	169,155.49
Accounts Receivable - US West	5,055.58
Accounts Receivable - AT&T	44,122.56
Accounts Receivable - NECA	24,600.00
Accounts Receivable - Other Carriers	139,802.50
Accounts Receivable - United Telephone	51,071.41
Interest Receivable	9,579.39
	<hr/>
	1,692,542.41
Investments in Affiliated Companies	133,766.96
	<hr/>
	133,766.96
Customer Premise Equipment	32,592.10
Acc. Deprec. - Customer Premise Equip	(29,487.73)
	<hr/>
	3,104.37
Deferred Charges	14,150.00
	<hr/>
Telephone Plant in Service	8,827,225.42
Acc. Dep. - Telephone Plant in Service	(5,090,487.67)
	<hr/>
	3,736,737.75
TOTAL ASSETS	<hr/> <hr/>
	\$5,580,301.49

Polar Telecommunications Inc.  
Balance Sheet  
December 31, 2000

Exhibit A

LIABILITIES

Accounts Payable	176,528.00
Sales Tax Payable	3,294.80
Accts Pay - US WEST	8,013.72
Accts Pay - NECA	22,803.90
	<u>210,640.42</u>
Income Taxes Accrued	96,000.00
Other Taxes Accrued	13,169.58
	<u>109,169.58</u>
Interest Payable - CoBank/Polar	26,429.15
	<u>26,429.15</u>
Notes Payable	2,252,495.39
	<u>2,252,495.39</u>
TOTAL LIABILITIES	<u>2,598,734.54</u>
STOCKHOLDERS EQUITY	
Capital Stock	<u>80,000.00</u>
Unappropriated Retained Earnings	<u>2,145,445.89</u>
Year to Date Margins	<u>756,121.06</u>
TOTAL STOCKHOLDERS EQUITY	<u>2,981,566.95</u>
TOTAL LIABILITIES AND EQUITY	<u><u>\$5,580,301.49</u></u>

Polar Telecommunications  
Statement of Operations  
December 31, 2000

Exhibit B

	2000
Operating Revenue	
Local Network Service	324,639.37
Network Access and Toll Network	1,595,654.36
Billing and Collection	34,600.67
Miscellaneous	82,499.37
Uncollectible Revenues	<u>(2,110.55)</u>
Total Operating Revenues	2,035,283.22
Operating Expenses	
Plant Specific	131,849.57
Plant Non-specific	23,593.26
Depreciation/Amortization	430,260.83
Customer Operations Expense	65,052.78
Corporate Operations Expense	<u>28,026.42</u>
Total Operating Expenses	678,782.86
Taxes	349,755.61
Net Operating Margin	1,006,744.75
Non-Operating Income (Expense)	
Dividend and Interest Income	59,914.81
Other Nonoperating Income	(125,190.09)
Income from Nonreg Activities	<u>11,584.80</u>
Total Non-operating Income	(53,690.48)
Interest Expense Funded Debt	196,933.21
Net Income	756,121.06

Polar Telecommunications Inc.  
Balance Sheet  
September 30, 2001

Exhibit C

ASSETS

Cash and Equivalents	\$33,686.33
Temporary Investments	632,549.90
Telephone Acct Rec ( Less Reserve)	23,816.62
Other Accounts Receivable	15,758.80
Accounts Receivable - US West	8,470.27
Accounts Receivable - AT&T	49,924.48
Accounts Receivable - NECA	19,039.00
Accounts Receivable - Other Carriers	101,671.73
Accounts Receivable - United Telephone	82,360.05
Accounts Receivable - ND Telephone Co.	1,232.03
Interest Receivable	2,081.13
Prepaid Insurance	821.00
	<hr/>
	971,411.34
Investments in Affiliated Companies	137,349.97
	<hr/>
	137,349.97
Customer Premise Equipment	33,419.57
Acc. Deprec. - Customer Premise Equip	(32,552.66)
	<hr/>
	866.91
Deferred Charges	72,132.39
	<hr/>
Plant Under Construction	450,811.49
	<hr/>
Telephone Plant in Service	8,833,597.17
Acc. Dep. - Telephone Plant in Service	(5,508,968.32)
	<hr/>
	3,324,628.85
TOTAL ASSETS	<hr/> <hr/>
	\$4,957,200.95

Polar Telecommunications Inc.  
Balance Sheet  
September 30, 2001

Exhibit C

LIABILITIES

Accounts Payable	70,304.55
Sales Tax Payable	3,202.44
Accts Pay - US WEST	9,795.28
Accts Pay - NECA	33,569.39
	<u>116,871.66</u>
Income Taxes Accrued	123,900.00
Other Taxes Accrued	24,284.22
	<u>148,184.22</u>
Interest Payable - CoBank/Polar	20,875.66
	<u>20,875.66</u>
Notes Payable	1,059,965.00
	<u>1,059,965.00</u>
TOTAL LIABILITIES	<u>1,345,896.54</u>
STOCKHOLDERS EQUITY	
Capital Stock	80,000.00
	<u>80,000.00</u>
Unappropriated Retained Earnings	2,901,566.95
	<u>2,901,566.95</u>
Year to Date Margins	629,737.46
	<u>629,737.46</u>
TOTAL STOCKHOLDERS EQUITY	<u>3,611,304.41</u>
TOTAL LIABILITIES AND EQUITY	<u><u>\$4,957,200.95</u></u>

Polar Telecommunications Inc.  
Statement of Operations  
September 30, 2001

Exhibit D

	2001
Operating Revenue	
Local Network Service	245,352.76
Network Access and Toll Network	1,212,015.26
Billing and Collection	25,253.18
Miscellaneous	70,338.00
Uncollectible Revenues	<u>(8,836.61)</u>
Total Operating Revenues	1,544,122.59
Operating Expenses	
Plant Specific	104,315.03
Plant Non-specific	19,738.38
Depreciation/Amortization	327,711.62
Customer Operations Expense	60,908.40
Corporate Operations Expense	<u>23,890.66</u>
Total Operating Expenses	536,564.09
Taxes	233,920.31
Net Operating Margin	773,638.19
Non-Operating Income (Expense)	
Dividend and Interest Income	28,640.95
Other Nonoperating Income	(91,456.90)
Income from Nonreg Activities	<u>9,940.84</u>
Total Non-operating Income	(52,875.11)
Interest Expense Funded Debt	91,025.62
Net Income	629,737.46

# *State of North Dakota*

## SECRETARY OF STATE



### CERTIFICATE OF GOOD STANDING

OF

POLAR TELECOMMUNICATIONS, INC.

The undersigned, as Secretary of State of the State of North Dakota, hereby certifies that POLAR TELECOMMUNICATIONS, INC., a North Dakota BUSINESS CORPORATION, was incorporated in this office on January 4, 1973 and, according to the records of this office as of this date, has paid all fees due this office as required by North Dakota statutes governing a North Dakota BUSINESS CORPORATION.

ACCORDINGLY the undersigned, as such Secretary of State, and by virtue of the authority vested in him by law, hereby issues this Certificate of Good Standing to

POLAR TELECOMMUNICATIONS, INC.

Issued: February 5, 2002

A handwritten signature in cursive script, reading "Alvin A. Jaeger".

Alvin A. Jaeger  
Secretary of State

**Scott, Sandi L.**

---

**From:** Lein, Jerry R.  
**Sent:** Wednesday, May 01, 2002 10:29 AM  
**To:** Comm; Legal; PUD  
**Subject:** Public Comments in PU-1727-02-55 and 56

I received a call from Marty Griffin of Pembina (701 825-6354) stating that he is familiar with Polar and very much in favor of telephone service in Pembina being provided by Polar.

**Scott, Sandi L.**

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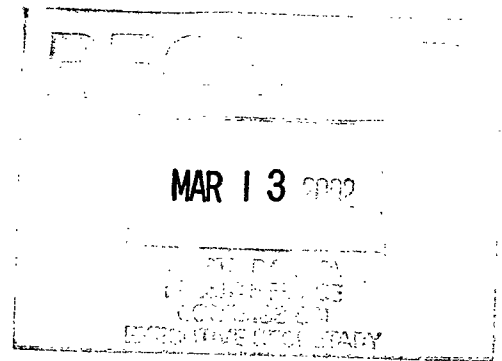
**From:** Fortney, Kathy M.  
**Sent:** Friday, April 26, 2002 2:32 PM  
**To:** Comm; PUD; Legal  
**Subject:** Customer Input

Frontier/Citizens buy/sell to Dickey Rural Access, Inc.(Case No.'s PU-2653-02-57 and PU-2653-02-58); Polar Telecommunications, Inc.(Case No.'s PU-1727-01-55 and PU-1727-02-56); and Red River Telecom, Inc.(Case No.'s PU-1692-02-53 and PU-1692-02-54)

Paul Trom 701-474-5760 from Fairmount, ND, is upset with the Commission because he has contacted us many times as far back as the 80's requesting assistance obtaining EAS to reach Hankinson only 9 miles away. He can call towns much further away without LD charges but not the town closest. They have tried petitions a number of times and failed. I explained our lack of authority but encouraged him to make an new effort with the new company if the sale is approved. The Commission has no authority over this issue with the new company.

3-11-2002

North Dakota Public Service Commission  
State Capitol  
Bismarck, ND 58505



Dear Sirs:

In reference to Case No PU-1727-02-55, the Polar Communications purchase of the telephone exchange from Citizens Communications, please let the purchase proceed with as planned. It has been some while that we, in Pembina, have been able to get good local telephone service from a reliable company that has it customers needs first.

Also, it is nice to have the same organization that the rest of the area has had, not only for service, but convenience.

Sincerely

Richard Margerum  
P.O. Box 313  
Pembina, ND 58271

Case Nos. PU-1727-02-55  
PU-1727-02-56

Orig. Public Input

@: Comm

Legal

puo (3)

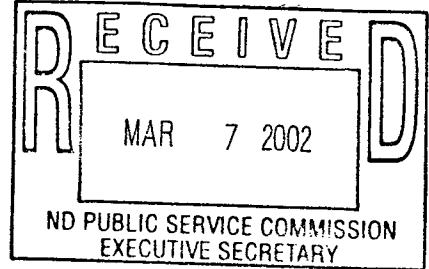
**City Of Pembina**

152 W. Rolette Street  
Pembina, ND 58271

Phone 701-825-6819  
Fax 701-825-6718

March 04, 2002

North Dakota Public Service Commission  
State Capitol  
Bismarck, ND 58505



RE: Case PU-1727-02-55

To the Members of the Public Service Commission:

On behalf of the City Council, Mayor, and this office of the City of Pembina, I would like to extend our absolute approval for the prospect of Polar Communications purchasing our telecommunications service here in Pembina. Polar Communications is known region-wide for its progressive company stance and customer-responsive service. In contrast, the current company, Citizens/Frontier, has a disturbing record for complaints regarding billing and service, of which we have complained to you previously. One businessperson told me that Citizens' uncooperativeness was the reason his business relocated to Grafton! Polar taking over our service will be a huge sigh of relief!

Sincerely,

*Kathy Johnson*  
Kathy Johnson  
Auditor/Administrator

*Public Input file - PU-1727-02-55 +  
PU-1727-0256  
C: Comm -  
Legal  
PUO (3)*

# Citizens



STATE BANK - MIDWEST  
P.O. BOX 30  
CAVALIER, NORTH DAKOTA 58220  
PHONE 701-265-8484

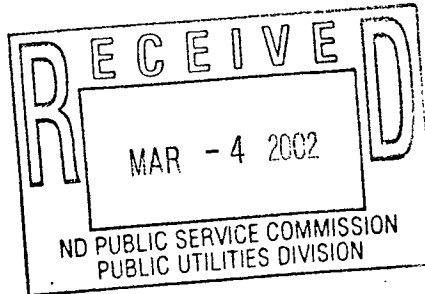
STATIONS AT

P.O. BOX 30  
NECHE, N.D. 58265  
PHONE 701-886-7521

P.O. BOX 389  
PEMBINA, N.D. 58271  
PHONE 701-825-6289

P.O. BOX 450  
STEPHEN, MN 56257  
PHONE 218-478-3319

P.O. BOX 130  
KENNEDY, MN 56733  
PHONE 218-674-4179



February 28, 2002

North Dakota Public Service Commission  
State Capitol  
Bismarck, ND 58505

RE: Case No. PU-1727-02-55

Gentlemen:

I am writing this letter in regards to the purchase of the Pembina phone exchange by Polar Communications from Citizens Communications.

Our main office in Cavalier currently has their phone system on the Polar exchange. The bank also has Polar service the security systems at all locations. Our relationship with Polar has been excellent. They have provided prompt, friendly, and knowledgable service to our business.

As a businessman and resident of Pembina, I would ask the Public Service Commission to approve the purchase because I know this will be beneficial to the community.

Thank you for your consideration in this matter.

Sincerely,

Douglas Taylor  
SVP

*Orig - Public Input File  
@. Comm  
Legal  
Pub (3)*

# Pembina Public School District #1

Pembina, North Dakota 58271  
Phone (701) 825-6261 or 825-6881 — Fax (701) 825-6645

1st Frame ★  
Public School Building  
in North Dakota  
1875

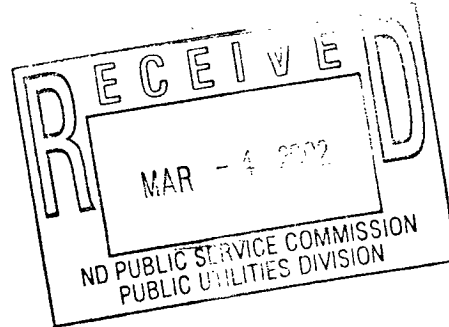
Wade G. Defoe, Superintendent / Principal

Paul O. Hagness, Elem. Principal  
Carol C. Steenerson, Business Manager

03-01-02

TO: Public Service Commission

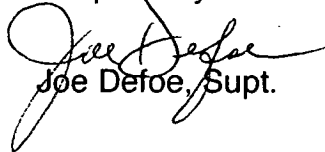
FROM: Joe Defoe, Supt.  
Pembina Public School  
Pembina, ND 58271



Public Service Commission:

I encourage the Public Service Commission to consider Polar Communications to service the Pembina area. With the many problems we have continually had with Citizens Communications I encourage you consider this change. Having communicated with other Polar recipients, this would be a positive move for our community as well as our school district. Polar as of now handles our Interactive Television System we have in our school and we have no complaints.

Respectfully

  
Joe Defoe, Supt.

Orig - Public Input File  
1. Comm  
Legal  
Pub (3)

PU 1727-02-55 PU 1727-02-56

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

David Dunne  
 Polar Telecommunications, Inc.  
 PO Box T  
 Park River MO 64650

**COMPLETE THIS SECTION ON DELIVERY**

A. Received by, (Please Print Clearly) B. Date of Delivery

2-19-02

C. Signature

X *Shelly DeB*

- Agent
- Addressee

D. Is delivery address different from item 1?  Yes  
If YES, enter delivery address below:  No

3. Service Type

- Certified Mail  Express Mail
- Registered  Return Receipt for Merchandise
- Insured Mail  C.O.D.

4. Restricted Delivery? (Extra Fee)  Yes

2. Article Number (Copy from service label)

7099 13220 0002 8483 1587