

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

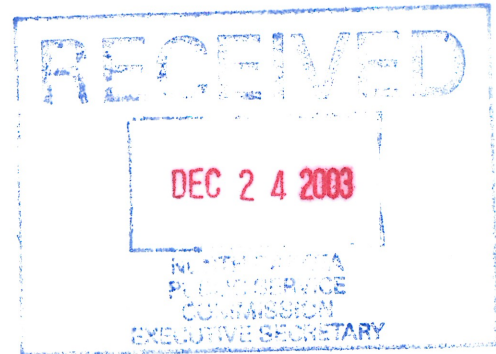
BEK Communications Cooperative,  
Consolidated Telcom, Dakota Central  
Telecommunications Cooperative, Dickey  
Rural Telephone Cooperative, Griggs  
County Telephone Company, Inter-  
Community Telephone Company, LLC,  
Missouri Valley Communications, Inc.,  
Moore and Liberty Telephone Company,  
Nemont Telephone Cooperative, Inc.,  
North Dakota Telephone Company,  
Northwest Communications Cooperative,  
Polar Communications Mutual Aid  
Corporation, and Reservation Telephone  
Cooperative,

Complainants,

vs.

SmartNET, Inc., d/b/a CallSmart,

Respondent.



**ANSWER AND REPLY  
TO COMPLAINT**

Case No.

Respondent is a North Dakota Corporation. Your Respondent hereby answers the  
Complaint as follow:

I.

The Respondent hereby denies each and every allegation, matter and thing therein set  
forth except as is specifically admitted, qualified or otherwise explained hereinafter.

II.

Admits the Respondent holds itself out to the public as "CallSmart" as alleged in

Paragraph I of the Complaint. Respondent is a IP Communications service provider using VOIP technology, not a telecommunications service provider as alleged in Paragraph I of the Complaint.

III.

Admits that CallSmart is a trade name owned by SmartNET, Inc., but deny that they need authority to provide an internet based long distance service known as VOIP as alleged in Paragraph II of the Complaint.

IV.

Admits that SmartNET, Inc. does have a long distance reseller's license, but denies that they operate as a long distance telecommunication service provider. SmartNET operates as a VOIP provider, not a telecommunications service provider.

V.

Respondent uses VOIP technology that does connect your telephone to the internet, as well as many other types of equipment that connect to the internet. Admits we advise our potential customers as to how the service works as alleged in Paragraph IV of the Complaint, as such, our technology offers IP Communication services that connects you to the internet.

VI.

Respondent denies that their method of operation is a scheme to avoid legal obligations of paying access charges as alleged in Paragraph V of the Complaint. Respondent has no obligation to pay such charges because Respondent uses VOIP technology, not telecommunications technology. In addition, the FCC will be addressing

VOIP issues in an upcoming "Notice of Proposed Rulemaking" and it would be advisable for all parties including the NDPSC to not act prematurely until this issue is resolved by the FCC. Any premature action could interfere with the wishes of the FCC and Congress in their intent to leave the internet free from undue regulations so that growth and exploration of the use of the internet will continue to benefit future generations.

VII.


Denies the Respondent has failed to obtain proper authority from the NDPSC because no authority is necessary for internet service providers.

WHEREFORE, the Respondent requests the NDPSC to issue an order:

1. Dismissing the Complaint;
2. Enjoining Complainants for interfering with SmartNET, Inc.'s business, thus allowing the FCC sufficient time to address the issue;
3. For a determination that SmartNET, Inc. uses internet, data phase elements that are not to be regulated by the NDPSC and the FCC.

Dated this 23 day of December, 2003.

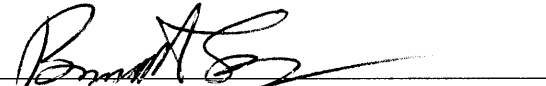
KUBIK, BOGNER, RIDL & SELINGER  
Attorneys for Respondent  
26 East Third Street  
P. O. Box 1173  
Dickinson, ND 58602-1173  
(701) 225-9155

By:   
Bruce A. Selinger, Attorney  
(ID# 04368)

CERTIFICATE OF SERVICE

I certify that I caused a true and correct copy of the foregoing ANSWER AND REPLY TO COMPLAINT to be mailed, by first class mail with postage duly prepaid, on the 23<sup>rd</sup> day of December, 2003, to the following person:

Don Negaard  
Attorney at Law  
P.O. Box 1000  
Minot, ND 58702

  
Bruce A. Selinger