

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.)



Case No. PU-2967-03-666

PETITION FOR RECONSIDERATION

COMES NOW the Rural Telephone Company Group (RTCG), Complainants herein, and moves the North Dakota Public Service Commission (Commission) for reconsideration pursuant to section 28-32-40 of the North Dakota Century Code.

On June 29, 2005, the Commission issued its Findings of Fact, Conclusions of Law and Order in this proceeding.

On July 14, 2005 the Commission received a Petition for Reconsideration from SmartNET, Inc. (SmartNET).

On July 14, 2005, the Commission received a Petition for Reconsideration from 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).

On July 22, 2005, Complainants filed a response to SmartNET's Petition for Reconsideration.

On July 27, 2005, SmartNET filed a response to Complainants' Petition for Reconsideration.

On August 10, 2005, the Commission issued its Order on Reconsideration. In its Order on Reconsideration, the Commission, while purporting to grant the Complainants' request for reconsideration, eliminated wording on the amount of compensation due to the Complainants but again reiterated that "there is insufficient evidence to determine whether respondent (SmartNET) is liable to the complainants." The Complainants submit this finding of fact and recitation in the Order is contrary to the evidence, the Commission's records and Orders, and the record in the case. It is also inconsistent with the Commission's own Conclusion of Law, number 6, which states: "SmartNET is providing a telecommunications service to end users located in separate local exchange areas and is an interexchange telecommunications company under 49-21-01(8)." By the very virtue of the fact that SmartNET, Inc., is found to be an interexchange carrier, it is liable for

access charges by virtue of prior Commission Orders attached to the Complainants' Post-Hearing Response Brief in this matter.

Complainants hereby request the Commission to reconsider its Order and issue an Order whereby this language in the Order is amended to read as follows:

"We hereby find the Respondent is responsible for origination and termination of interexchange traffic, in accordance with prior Commission Orders on intrastate access."

The Complainants do so for the following reasons:

1. The Order is clearly inconsistent with the other findings of fact of the Commission.
2. The Order is clearly inconsistent with prior Access Orders issued by the Commission, and
3. The Order is clearly inconsistent with the Commission's own records of Access Tariffs.

Respectfully submitted this 23rd day of August, 2005.

PRINGLE & HERIGSTAD, P.C.



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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Petition for Reconsideration with attached Affidavits and Brief in Support of Petition for Reconsideration was served by regular mail on the 23rd day of August, 2005, on the following:

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