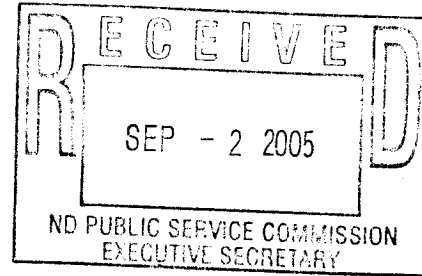


BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

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

**SUPPLEMENTAL
 BRIEF IN SUPPORT OF
 PETITION FOR
 RECONSIDERATION**

The Rural Telephone Company Group (RTCG) submits this supplemental brief in support of its Petition for Reconsideration dated August 23, 2005.

In the Complaint dated November 24, 2003, the RTCG, in paragraph I alleged: "The Respondent advertises and holds itself out to the public as "CallSmart," providing long distance telecommunications services to Bismarck, Fargo, Dickinson, and surrounding committees." (Emphasis added.)

In its Answer and Reply to Complaint, CallSmart stated that it: "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.”

In the balance of its Answer and this proceeding, CallSmart never once denied that it provided services in outlying areas of Dickinson, Bismarck, and Fargo. It merely denied the characteristics of services it provided and alleged its services were VOIP and were not telecommunications.

The RTCG requested the PSC take judicial notice of its own records. These records would show that Consolidated Telcom, BEK, and West River provide local exchange services in the communities surrounding Dickinson and Bismarck and hold PC&Ns for these communities.

There never was a dispute by CallSmart that its traffic originated on the networks of the Complainants. The only issue CallSmart disputed was how this service was characterized. Throughout the proceedings, CallSmart never disputed its use of facilities of the Complainants. Its total defense was based on the characterization of this traffic. CallSmart denied it was an interexchange carrier and claimed it was an information provider. This was summed up in paragraph 4 of the Commission’s Findings of Fact issued on June 29, 2005. In addition, in paragraph 8 of its Findings of Fact, the Commission found that “[S]martNET customers in certain towns adjacent to Fargo, Bismarck and Dickinson are able to dial SmartNET’s seven digit number as a local phone call because of arrangements the adjacent local exchange companies have with Qwest

Communications, called extended area service. SmartNET's customers are using their local lines to access SmartNET's network."

Again, based on the Commission's own Findings of Fact, it was never disputed that SmartNET was using the facilities of the Complainants to originate traffic to other exchanges in North Dakota.

In Finding of Fact number 7, the Commission found: "CallSmart's residence and business subscribers can originate a voice communication to destinations anywhere in the 48 states and Canada and anywhere in the world." (Emphasis added.)

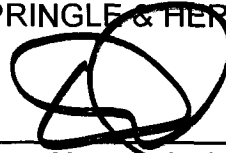
Again, it was not disputed that CallSmart's network used local facilities to place calls anywhere in the world and the Commission's finding that SmartNET is an interexchange carrier seals the requirement that SmartNET is responsible for access.

The RTCG respectfully requests the Commission to reissue its Order with a finding request by the RTCG that:

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

Respectfully submitted this 2nd day of September, 2005.

PRINGLE & HERIGSTAD, P.C.




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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Supplemental Brief in Support of Petition for Reconsideration was served by regular mail on the 2nd day of September, 2005, on the following:

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