

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
Consolidated Telcom, Consolidated)
Communications Networks, Inc., 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

AMENDED COMPLAINT

Complainants are North Dakota corporations operating as local exchange carriers in their licensed service areas. Respondent is a North Dakota corporation.

Complainants allege:

I.

The Respondent advertises and holds itself out to the public as "CallSmart," providing long distance telecommunications services to Bismarck, Fargo, Dickinson, and surrounding communities.

II.

To the best information and belief of the Complainants, CallSmart is a trade name owned by SmartNET, Inc., a company that does not have any authority to provide long distance services in North Dakota, except as a reseller of long distance services.

III.

The Complainants are advised that SmartNET, Inc., does have a long distance reseller's license which was issued by the North Dakota Public Service Commission (NDPSC) on August 16, 2002; however, upon the information and belief of the Complainants, the Respondent does not operate as a long distance reseller but as a long distance Telecommunications Services provider.

IV.

The Respondent advises its potential customers that no customer premises equipment is needed to use its services, but instead it uses telephone-to-telephone technology (see www.getcallsmart.com).

V.

The services offered by the Respondent and its method of operations are a scheme to avoid legal obligations of paying access charges to legitimately licensed local exchange carriers in North Dakota while using the local exchange switched telephone network to complete long distance telephone calls using local service facilities of the Complainants.

VI.

The Respondent has failed to obtain proper authority from the NDPSC and is providing unlicensed Telecommunications Services in violation of North Dakota law, including, but not limited to, North Dakota Century Code Chapter 49-21, Chapter 49-02,

and Chapter 49-03.1 and lawful regulations and orders of the North Dakota Public Service Commission.

WHEREFORE, the Complainants request the NDPSC to issue an Order:

1. Finding SmartNET, Inc., d/b/a CallSmart, in violation of North Dakota law for failure to properly register as a Telecommunications Carrier and for failure to obtain the necessary authority needed to conduct its operations;

2. Enjoining SmartNET, Inc., d/b/a CallSmart, from conducting any further business activity until such time as it is properly licensed in North Dakota to provide Telecommunications Services; and

3. Requiring the Respondent to pay to pay the Complainants for access fees for the use of their local switched network facilities in accordance with North Dakota law and prior commission rules and orders.

Dated this 21st day of November, 2005.

PRINGLE & HERIGSTAD, P.C.



Don Negaard, ND Bar ID #03598
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000
Telephone: (701) 852-0381
Fax: (701) 857-1361
pringle@ndak.net
Attorney for Complainants