

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Red River Telecom, Inc., et al.
Number Portability
Compliance

Case No. PU-04-138

ORDER DISMISSING PETITION

Preliminary Statement

On March 4, 2004, Red River Rural Telephone Association and Red River Telecom, Inc. (Red River) filed a request for suspension or modification of Section 251(b)(2) of the Telecommunication Act (Act). Section 251(b)(2) requires all local exchange carriers to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the FCC.

Section 251(f)(2) provides in pertinent part that “[a] local exchange carrier with fewer than 2 percent of the Nation’s subscriber lines installed in the aggregate nation-wide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) to telephone exchange services specified in such petition.”

The Legislature has limited the Commission’s authority under N.D.C.C. § 49-21-01.7(11) to “[d]etermine whether to terminate a rural telephone company’s exemption under section 251(f) of the federal act.” The authority under the Act to grant a rural telephone company’s rural exemption is found in Section 251(f)(1). The Legislature has been meticulous in limiting Commission authority over telecommunications companies. The Legislature has not given the Commission authority to grant a “suspension or modification” for a rural carrier under section 251(f)(2) of the Act. The Commission has only such powers in the regulation of public utilities as have been conferred upon it by the Legislature. *Williams Electric Coop. v. Montana-Dakota Utilities Co.*, 79 N.W. 508, 516 (N.D. 1956).

The Commission finds that its authority under N.D.C.C. § 49-21-01.7(11) is limited to granting requests for “exemptions” for rural carriers and does not extend to “suspensions and modifications.”

Order

The Commission orders the Petition of Red River Rural Telephone Association Inc. and Red River Telecom, Inc. dismissed for lack of Commission jurisdiction.

PUBLIC SERVICE COMMISSION


Susan E. Wefald
Commissioner


Tony Clark
President


Kevin Cramer
Commissioner