

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE APPLICATION OF)
WINSTAR WIRELESS, INC. FOR A)
CERTIFICATE OF AUTHORITY TO PROVIDE)
TELECOMMUNICATIONS SERVICES IN)
SOUTH DAKOTA AND FOR APPROVAL NUNC)
PRO TUNC OF A TRANSFER OF ASSETS)
FROM MIDCOM COMMUNICATIONS, INC. TO)
WINSTAR WIRELESS, INC.)

**ORDER DENYING
CERTIFICATE OF
AUTHORITY**

TC98-062

On March 4, 1998, the Public Utilities Commission (Commission), in accordance with SDCL 49-31-3 and ARSD 20:10:24:02, received an application for a certificate of authority from WinStar Wireless, Inc. (WinStar Wireless).

WinStar Wireless proposes to offer long distance services throughout the state of South Dakota on a resale basis. A proposed tariff was filed by WinStar Wireless. The Commission has classified long distance service as fully competitive.

On March 5, 1998, the Commission electronically transmitted notice of the filing and the intervention deadline of March 20, 1998, to interested individuals and entities. No petitions to intervene or comments were filed. On March 9, 1998, Commission Staff sent WinStar Wireless a request for additional data. Staff never received the requested information. Staff sent a second letter on August 20, 1998, which WinStar Wireless never responded to. A copy of the Commission's September 10, 1998, agenda was electronically transmitted to WinStar Wireless on September 3, 1998. At its regularly scheduled September 10, 1998, meeting, the Commission considered WinStar Wireless' request for a certificate of authority. Commission Staff recommended denying the certificate of authority and closing the docket as WinStar Wireless never sent the requested information.

The Commission finds that it has jurisdiction over this matter pursuant to Chapter 49-31, specifically 49-31-3 and ARSD 20:10:24:02 and 20:10:24:03. The Commission finds that WinStar Wireless has not met the legal requirements established for the granting of a certificate of authority. WinStar Wireless has not, in accordance with SDCL 49-31-3, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota. The Commission voted to deny WinStar Wireless' application for a certificate of authority. As the Commission's final decision in this matter, it is therefore

ORDERED, that WinStar Wireless' application for a certificate of authority is hereby denied.

Dated at Pierre, South Dakota, this 21st day of September, 1998.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by first class mail, in properly addressed envelopes, with charges prepaid thereon.
By: <u><i>William Kelso</i></u>
Date: <u>9/21/98</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner