

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

**IN THE MATTER OF THE APPLICATION OF
NOW COMMUNICATIONS OF SOUTH
DAKOTA, INC. FOR A CERTIFICATE OF
AUTHORITY TO PROVIDE INTEREXCHANGE
TELECOMMUNICATIONS AND LOCAL
EXCHANGE SERVICES IN SOUTH DAKOTA**)
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**ORDER GRANTING
CERTIFICATE OF
AUTHORITY**

TC02-044

On May 10, 2002, in accordance with SDCL 49-31-3, ARSD 20:10:24:02 and ARSD 20:10:32:02, the Public Utilities Commission (Commission) received an application for a certificate of authority from NOW Communication of South Dakota (NOW).

NOW proposes to offer services to residential customers with poor or no credit history who are often unable to obtain local exchange services from the ILEC. The applicant intends to provide interexchange service on a resale basis and local exchange service via resale and the purchases of local exchange carrier network elements (UNE). A proposed tariff was filed by NOW.

On May 16, 2002, the Commission electronically transmitted notice of the filing and the intervention deadline of May 31, 2002, to interested individuals and entities. No petitions to intervene or comments were filed and at its October 17, 2002, meeting, the Commission considered NOW's request for a certificate of authority. Commission Staff recommended granting a certificate of authority, subject to rural safeguards, and subject to a continuous \$25,000 surety bond. Commission staff further recommended a waiver of ARSD 20:10:24:02(08) and 20:10:32:03(11).

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-3 and 49-31-69 and ARSD 20:10:24:02, 20:10:24:03 and 20:10:32:03. The Commission finds that NOW has met the legal requirements established for the granting of a certificate of authority. NOW has, in accordance with SDCL 49-31-3 and 49-31-71, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota. Further, the Commission finds that there is good cause to waive subparagraph (8) of ARSD 20:10:24:02 and subparagraph (11) of ARSD 20:10:32:03.

The Commission approves NOW's application for a certificate of authority, subject to rural safeguards, and subject to a continuous \$25,000 surety bond. The certificate of authority of NOW shall authorize it to offer local exchange services in South Dakota, except those in areas served by a rural telephone company. In the future, should NOW choose to provide local exchange services in an area served by a rural telephone company, NOW will have to come before the Commission in another proceeding before being able to provide local service in that rural service area pursuant to 47 U.S.C. 253(f), which allows

the Commission to require a company that seeks to provide service in a rural service area to meet the requirement in 47 U.S.C. 214(e)(1) for designation as an eligible telecommunications carrier. In addition, the granting of statewide certification will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. 251(f). It is therefore

ORDERED, the NOW's application for a certificate of authority to provide interexchange telecommunications services and local exchange services is granted subject to a continuous \$25,000 surety bond; and it is

FURTHER ORDERED, that NOW shall file informational copies of tariff changes with the Commission as the changes occur; and it is

FURTHER ORDERED, that the Commission shall authorize NOW to offer its local exchange services in South Dakota, except in those areas served by a rural telephone company; and it is

FURTHER ORDERED, that the Commission waives subparagraph (8) of ARSD 20:10:24:02 and subparagraph (11) of ARSD 20:10:32:03.

Dated at Pierre, South Dakota, this 31st day of October, 2002.

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>Melaine Kolbo</u>
Date:	<u>10/31/02</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Robert K. Sahr
ROBERT K. SAHR, Commissioner