

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

IN THE MATTER OF THE APPLICATION OF)	ORDER GRANTING
321 COMMUNICATIONS, INC. FOR A)	CERTIFICATE OF
CERTIFICATE OF AUTHORITY TO PROVIDE)	AUTHORITY
LOCAL EXCHANGE SERVICES IN SOUTH)	
DAKOTA)	TC08-141

On December 19, 2008, the Public Utilities Commission (Commission) received an application for a certificate of authority to provide local exchange services in South Dakota from 321 Communications, Inc. (321 Communications).

On December 24, 2008, the Commission electronically transmitted notice of the filing and the intervention deadline of January 9, 2009, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled January 27, 2009, meeting, the Commission considered 321 Communications' request for a certificate of authority. Commission Staff recommended granting a certificate of authority, subject to the condition that 321 Communications not offer any prepaid services (including prepaid calling cards) and not accept or require any deposits or advance payments without prior approval of the Commission, and subject to rural safeguards. Commission Staff further recommended a waiver of ARSD 20:10:32:03(12)

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-69 and ARSD 20:10:32:03. The Commission finds that 321 Communications has met the legal requirements established for the granting of a certificate of authority. 321 Communications has, in accordance with SDCL 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 ARSD 20:10:32:03(12).

The Commission approves 321 Communications' application for a certificate of authority, subject to the condition that 321 Communications not offer any prepaid services (including prepaid calling cards) and not accept or require any deposits or advance payments without prior approval of the Commission, and subject to rural safeguards. The certificate of authority for 321 Communications shall authorize it to offer local exchange services in South Dakota, except in those areas served by a rural telephone company. In the future, should 321 Communications choose to provide local exchange services statewide, with respect to rural telephone companies, 321 Communications 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 requirements 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, that 321 Communications' application for a certificate of authority to provide local exchange services is granted, subject to the condition that 321 Communications not offer any prepaid services (including prepaid calling cards) and not accept or require any deposits or advance payments without prior approval of the Commission; and it is

FURTHER ORDERED, that the Commission shall authorize 321 Communications 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 ARSD 20:10:32:03(12); and it is

FURTHER ORDERED, that this order constitutes your certificate of authority as described above.

Dated at Pierre, South Dakota, this 5th day of February, 2009.

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, electronically.
By: <u><i>Delaine Kolbo</i></u>
Date: <u>2/5/09</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Dustin M. Johnson
DUSTIN M. JOHNSON, Chairman

Steve Kolbeck
STEVE KOLBECK, Commissioner

Gary Hanson
GARY HANSON, Commissioner