OF THE STATE OF SOUTH DAKOTA

IN	THE	MAT	TER O	F THE	APP	LICA	TION	OF
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ORDER GRANTING
CERTIFICATE OF
AUTHORITY; APPROVING
SWITCHED ACCESS
TARIFF; AND GRANTING
WAIVERS

TC10-097

On October 29, 2010, the Public Utilities Commission (Commission) received an application from Pac-West Telecomm, Inc. (Pac-West) for a certificate of authority to provide facilities based and resold local exchange and interexchange services for the state of South Dakota. Pac-West intends to provide local exchange service in the areas served by Qwest Corporation (Qwest) and does not plan to provide service in areas of any small or rural local exchange carriers. Pac-West intends to provide switched local telecommunications services to South Dakota businesses. On November 4, 2010, the Commission electronically transmitted notice of the filing and the intervention deadline of November 19, 2010, to interested individuals and entities. No petitions to intervene or comments were received by the Commission.

On December 22, 2010, the Commission received a request from Pac-West for an exemption from developing company-specific cost-based switched access rates per ARSD 20:10:27:11. Additionally, Pac-West requested a waiver from the formula in ARSD 20:10:27:12; from the calculation of billing and collection costs as set forth in ARSD 20:10:27:13; and from the filling requirements set forth in ARSD 20:10:27:07. Pac-West requests instead, for permission to cap its switched access rates and all related rates at Qwest's switched access rates. On December 21, 2010, Pac-West filed for approval its access services tariff entitled Resale Telecommunications Services Tariff (Tariff).

At its regularly scheduled meeting of January 4, 2011, the Commission considered this matter. Commission Staff recommended granting a certificate of authority, subject to rural safeguards. Additionally, Staff recommended approval of all switched access portions of the Tariff and to grant an exemption or waivers of ARSD 20:10:27:07, 20:10:27:11, 20:10:27:12, and 20:10:27:13, so long as Pac-West's switched access rates and all related switched access rates be at or below comparable Qwest switch access rates.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-3, 49-31-69, 49-31-71, and ARSD 20:10:24:02, 20:10:24:03, 20:10:27, and 20:10:32:03. The Commission finds that Pac-West has met the legal requirements established for the granting of a certificate of authority. Pac-West 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.

The Commission approves Pac-West's application for a certificate of authority subject to rural safeguards. The certificate of authority for Pac-West shall authorize it to provide local exchange and interexchange services in South Dakota, except in those areas served by a rural

telephone company. In the future, should Pac-West choose to provide local exchange services statewide, with respect to rural telephone companies, Pac-West 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 of 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 Pac-West's application for a certificate of authority to offer its interexchange telecommunications services and local exchange services is granted. It is further

ORDERED, that the Commission shall authorize Pac-west to offer its local exchange services in South Dakota, except in those areas served by a rural telephone company. It is further

ORDERED, that Pac-West's request for an exemption from developing company-specific cost-based switched access rates in ARSD 20:10:27:11 is hereby granted and that the switched access portion of Pac-West's tariff are approved and Pac-West's petition for waivers of ARSD 20:10:27:07, 20:10:27:12, and 20:10:27:13 are granted so long as Pac-West's switched access rates and all associated rates are at or below the switched access rates of Qwest. It is further

ORDERED, that this order constitutes Pac-West's certificate of authority as described above.

Dated at Pierre, South Dakota, this 13th day of January, 2011.

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, electropically.

Date:

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

STEVE KOLBECK, Chairman

GARY HANSON, Commissioner

DUSTIN M. JOHNSON, Commissioner