

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

**IN THE MATTER OF THE APPLICATION OF THE)
APPLICATION OF UBIQUITY SOUTH DAKOTA, LLC)
FOR CERTIFICATE OF AUTHORITY TO PROVIDE)
LOCAL EXCHANGE AND INTEREXCHANGE)
TELECOMMUNICATIONS SERVICES IN THE STATE)
OF SOUTH DAKOTA)**

**ORDER GRANTING
CERTIFICATES OF AUTHORITY;
ORDER GRANTING WAIVER**

TC24-011

On April 26, 2024, the South Dakota Public Utilities Commission (Commission) received an application from Ubiquity South Dakota, LLC (Ubiquity) for a Certificates of Authority to Provide Local Exchange and Interexchange Telecommunications Services in the State of South Dakota. In its application, Ubiquity proposes to offer wholesale services to internet service providers who will in turn provide service to end users. Ubiquity does not seek to provide retail voice telecommunications services nor switched access services.

On May 1, 2024, the Commission electronically transmitted notice of the filing and the intervention deadline of May 17, 2024, to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. On May 3, 2024, the Commission received Ubiquity's filing fee. On May 6, 2024, the Commission received South Dakota Telecommunications Association's (SDTA) Petition to Intervene and Certificate of Service. On May 8, 2024, the Commission received Ubiquity's Interexchange Carrier Application and Letter regarding Notice of Availability of Application. On June 3, 2024, SDTA and Ubiquity filed a Joint Stipulation. On June 3, 2024, Ubiquity filed responses to staff's first set of data requests. On June 5, 2024, the Commission issued an Order Granting Intervention to SDTA. On June 28, 2024, Ubiquity filed Supplemental Information to staff's first set of data requests.

Commission staff recommended granting a certificate of authority with the conditions that, for retail purposes, Ubiquity 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 the Commission waive ARSD 20:10:32:10 subject to the condition that Ubiquity not offer switched access services in the state without approval by the Commission and a reevaluation of the waiver. Regarding Ubiquity's request for a waiver of ARSD 20:10:32:15, Commission staff recommended that either Ubiquity withdraw the request or the Commission deny the request on the basis that said rule is inapplicable. Ubiquity agreed to withdraw the request of a waiver of ARSD 20:10:32:15.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-3 and 49-31-69 through 49-31-75, and ARSD Chapters 20:10:24 and 20:10:32. The Commission finds that Ubiquity has met the legal requirements established for the granting of a certificate of authority. The Commission also finds that Ubiquity 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 voted unanimously to approve Ubiquity's application for a certificate of authority subject to the conditions that, for retail purposes, Ubiquity 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 be subject to rural safeguards. The Commission further voted unanimously to grant the waiver of ARSD 20:10:32:10, subject to the condition that Ubiquity not offer switched access services in the state without approval by the Commission and a reevaluation of the waiver. The certificate of authority for Ubiquity shall authorize it to provide local exchange and interexchange telecommunications service in South Dakota, except in those areas served by a rural telephone company. In the future, should Ubiquity choose to provide local exchange or interexchange services statewide, with respect to rural telephone companies, Ubiquity 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 Ubiquity's requested waiver of ARSD 20:10:32:10 is hereby granted, subject to the condition that Ubiquity not offer switched access services in the state without approval by the Commission and a reevaluation of the waiver. It is further


ORDERED, that Ubiquity's application for a certificate of authority to provide interexchange services in South Dakota is hereby granted, subject to the conditions that, for retail purposes, Ubiquity 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. It is further

ORDERED, that the certificate of authority is conditioned upon all representations and agreements included in data request responses and in the Joint Stipulation. It is further

ORDERED, that this certificate of authority authorizes Ubiquity to offer its local exchange and interexchange services in South Dakota, except in those areas served by a rural telephone company. It is further

ORDERED, that this order constitutes Ubiquity's Certificate of Authority as described above.

Dated at Pierre, South Dakota, this 23rd day of July 2024.

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 or by mail.
By: <u></u>
Date: <u>23 July 2024</u>

BY ORDER OF THE COMMISSION:



KRISTIE FIEGEN, Chairperson



GARY HANSON, Commissioner



CHRIS NELSON, Commissioner