

## Telecommunications Orders - Issued 1997

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

**IN THE MATTER OF THE APPLICATION OF COMMCHOICE, ) ORDER GRANTING  
LLC FOR A CERTIFICATE OF AUTHORITY TO PROVIDE ) CERTIFICATE OF  
TELECOMMUNICATIONS SERVICES IN SOUTH DAKOTA ) AUTHORITY  
 )  
 ) TC97-035**

On April 10, 1997, the Public Utilities Commission (Commission) received an application from CommChoice, LLC (CommChoice) for a Certificate of Authority to provide telecommunications services in South Dakota. The application stated, "CommChoice will provide telecommunications services including local exchange services, intraLATA services and interLATA services through a combination of reseller and facilities-based provisioning. The specific products and services are in part dependent upon resale agreements entered into with local exchange companies. CommChoice will enter into agreements with local exchange companies for the resale of telecommunications services. These services will be provided by the local exchange company in the same manner they have been provided in the past. Initially, telecommunications services will be offered to commercial and industrial businesses located in South Dakota cities served by U S WEST. As resale agreements with other local exchange companies are executed, CommChoice will expand its service territory to include additional cities. CommChoice requests a waiver from ARSD 20:10:24:02 (8) which requires tariffs and terms and conditions of service to be filed. The cost to provide local exchange service cannot be estimated until resale interconnection agreements between the parties have been reached and contracts executed. When the specific costs and contractual arrangements are known, rates and terms and conditions will be filed with the Commission, as required by the PUC."

On April 10, 1997, the Commission electronically transmitted notice of the filing and the intervention deadline of April 25, 1997, to interested individuals and entities. On April 25, 1997, South Dakota Independent Telephone Companies (SDITC) filed a petition to intervene. SDITC withdrew its intervention on May 12, 1997.

At its regularly scheduled meeting of June 3, 1997, the Commission considered CommChoice's request for a Certificate of Authority. Commission Staff recommended approval of the Certificate of Authority and also granted a waiver of ARSD 20:10:24:02 (7), (8), and (12).

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31 and ARSD Chapter 20:10:24. The Commission finds that CommChoice has met the legal requirements established for the granting of a Certificate of Authority. CommChoice has, in accordance with the above cited authority, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota. Pursuant to ARSD 20:10:24:02, the Commission finds good cause to waive subparagraphs (7), (8), and (12) because the information required by these

subparagraphs is dependent on the outcome of negotiations or arbitrations between CommChoice and local exchange carriers.

Further, the Commission finds that pursuant to CommChoice's request, the Certificate of Authority for CommChoice shall authorize it to offer its services in those areas in South Dakota where U S WEST Communications, Inc. is the incumbent local exchange carrier. In the future should CommChoice choose to provide services statewide, with respect to rural telephone companies, CommChoice will have to come before the Commission in another proceeding before being able to provide 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). Subject to the above, the Commission approves CommChoice's application for a Certificate of Authority. As the Commission's final decision in this matter, it is therefore

ORDERED, that CommChoice's application for a Certificate of Authority to provide local exchange services is granted, effective June 10, 1997; and it is

FURTHER ORDERED, that the Commission shall authorize CommChoice to offer its services in those areas in South Dakota where U S WEST Communications, Inc. is the incumbent local exchange carrier; and it is

FURTHER ORDERED, that the Commission finds good cause to waive subparagraphs (7), (8), and (12) of ARSD 20:10:24:02.

Dated at Pierre, South Dakota, this 10th day of June, 1997.

**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 facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: \_\_\_\_\_

Date: \_\_\_\_\_

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

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JAMES A. BURG, Chairman

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PAM NELSON, Commissioner

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LASKA SCHOENFELDER,  
Commissioner

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