

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

IN THE MATTER OF THE APPLICATION OF)	ORDER GRANTING
DIECA COMMUNICATIONS, INC. D/B/A COVAD)	CERTIFICATE OF
COMMUNICATIONS COMPANY FOR A)	AUTHORITY
CERTIFICATE OF AUTHORITY TO PROVIDE)	
TELECOMMUNICATIONS SERVICES,)	TC99-062
INCLUDING LOCAL EXCHANGE SERVICES, IN)	
SOUTH DAKOTA)	

On June 17, 1999, the Public Utilities Commission (Commission) received an application for a certificate of authority from DIECA Communications, Inc. d/b/a Covad Communications Company (DIECA).

DIECA seeks authority to provide local and interexchange telephone services to customers throughout South Dakota. Exchange services will include, but will not be limited to high speed "always on" connectivity using xDSL technology. DIECA will not provide dial tone; it will provide dedicated private line services. A proposed tariff was filed by DIECA.

DIECA's authority to operate within South Dakota shall not include the providing of dial tone services. Further, as a condition of granting this certificate of authority, DIECA shall inform each of its customers at the time of subscription to its service that it does not provide voice grade or dial tone services and that emergency services such as 911, enhanced 911, operator services, directory assistance and telecommunications relay services are not available to the customer from DIECA.

On June 24, 1999, the Commission electronically transmitted notice of the filing and the intervention deadline of July 9, 1999, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled November 15, 1999, meeting, the Commission considered DIECA's request for a certificate of authority. Commission Staff recommended granting a certificate of authority, subject to rural safeguards, a continuous \$25,000 surety bond and restriction from offering dial tone services. Commission Staff further recommended a waiver of 20:10:32:03(8) and (10).

The Commission finds that it has jurisdiction over this matter pursuant to 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 DIECA has met the legal requirements established for the granting of a certificate of authority. DIECA 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 subparagraphs (8) and (10) of ARSD 20:10:32:03.

The Commission approves DIECA's application for a certificate of authority, subject to rural safeguards, a continuous \$25,000 surety bond and restriction from offering dial tone services. The certificate of authority for DIECA shall authorize it to offer local exchange services in those areas in South Dakota where U S WEST Communications, Inc. is the incumbent local exchange carrier. In the future, should DIECA choose to provide local exchange services statewide, with respect to rural telephone companies, DIECA 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 DIECA's application for a certificate of authority to provide telecommunications services, including local exchange services, is granted, subject to a continuous \$25,000 surety bond; and it is

FURTHER ORDERED, that DIECA's authority to operate within South Dakota shall not include the providing of dial tone services. Further, as a condition of granting this certificate of authority, DIECA shall inform each of its customers at the time of subscription to its service that it does not provide voice grade or dial tone services and that emergency services such as 911, enhanced 911, operator services, directory assistance and telecommunications relay services are not available to the customer from DIECA; and it is

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

FURTHER ORDERED, that the Commission shall authorize DIECA to offer its local exchange 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 (8) and (10) of ARSD 20:10:32:03.

Dated at Pierre, South Dakota, this 18th day of November, 1999.

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:	<u><i>Debbie Koebke</i></u>
Date:	<u>11/22/99</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner

Laska Schoenfelder
LASKA SCHOENFELDER, Commissioner