

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

<b>IN THE MATTER OF THE APPLICATION OF )</b>	<b>ORDER GRANTING</b>
<b>360NETWORKS (USA) INC. FOR A )</b>	<b>CERTIFICATE OF</b>
<b>CERTIFICATE OF AUTHORITY TO PROVIDE )</b>	<b>AUTHORITY</b>
<b>LOCAL EXCHANGE SERVICES IN SOUTH )</b>	
<b>DAKOTA )</b>	<b>TC00-170</b>

On October 10, 2000, the Public Utilities Commission (Commission) received an application for a certificate of authority from 360networks (USA) inc. (360networks).

360networks proposes to offer non-switched dedicated and private line, high capacity fiber optic transmission capacity and access services and will eventually offer a broad range of voice and data local exchange services to business and residential customers throughout the state. A proposed tariff was filed by 360networks.

On October 12, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of October 27, 2000, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled November 30, 2000, meeting, the Commission considered 360networks' request for a certificate of authority. Commission Staff recommended granting a certificate of authority, subject to rural safeguards, and subject to a continuous \$25,000 surety bond. Commission Staff further recommended a waiver of ARSD 20:10:32:03(11).

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 360networks has met the legal requirements established for the granting of a certificate of authority. 360networks 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 subparagraph (11) of ARSD 20:10:32:03.

The Commission approves 360networks' application for a certificate of authority, subject to rural safeguards, and subject to a continuous \$25,000 surety bond. The certificate of authority for 360networks 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 360networks choose to provide local exchange services statewide, with respect to rural telephone companies, 360networks 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 360networks' application for a certificate of authority to provide local exchange services is granted, effective December 10, 2000, subject to a continuous \$25,000 surety bond; and it is

FURTHER ORDERED, that 360networks shall file informational copies of tariff changes with the Commission as the changes occur; and it is

FURTHER ORDERED, that the Commission shall authorize 360networks 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 finds good cause to waive subparagraph (11) of ARSD 20:10:32:03.

Dated at Pierre, South Dakota, this 7<sup>th</sup> day of December, 2000.

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>Delaine Kalbs</i></u>
Date:	<u>12/8/00</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