

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

IN THE MATTER OF THE APPLICATION OF )	ORDER GRANTING
MAXCESS, INC. FOR A CERTIFICATE OF )	CERTIFICATE OF
AUTHORITY TO PROVIDE )	AUTHORITY
TELECOMMUNICATIONS SERVICES, )	
INCLUDING LOCAL EXCHANGE SERVICES, IN )	TC00-077
SOUTH DAKOTA )	

On May 2, 2000, the Public Utilities Commission (Commission) received an application for a certificate of authority from Maxcess, Inc. (Maxcess).

Maxcess intends to initially offer interexchange and local exchange services. A proposed tariff was filed by Maxcess.

On May 4, 2000, the Commission electronically transmitted notice of the filing and the intervention deadline of May 19, 2000, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled July 13, 2000, meeting, the Commission considered Maxcess' request for a certificate of authority. Commission Staff recommended granting a certificate of authority, subject to rural safeguards, and subject to the condition that Maxcess not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission. Commission Staff further recommended a waiver of ARSD 20:10:24:02(8) and ARSD 20:10:32:03(11).

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-3 and 49-31-69 and ARSD 20:10:24:02, 20:10:24:03 and 20:10:32:03. The Commission finds that Maxcess has met the legal requirements established for the granting of a certificate of authority. Maxcess 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 subparagraph (8) of ARSD 20:10:24:02 and subparagraph (11) of ARSD 20:10:32:03.

The Commission approves Maxcess' application for a certificate of authority, subject to rural safeguards, and subject to the condition that Maxcess not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission. The certificate of authority for Maxcess 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 Maxcess choose to provide local exchange services statewide, with respect to rural telephone companies, Maxcess 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 Maxcess' application for a certificate of authority to provide telecommunications services, including local exchange services, is granted, subject to the condition that Maxcess not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission; and it is

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

FURTHER ORDERED, that the Commission shall authorize Maxcess 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 (8) of ARSD 20:10:24:02 and subparagraph (11) of ARSD 20:10:32:03.

Dated at Pierre, South Dakota, this 20<sup>th</sup> day of July, 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>Delvin Kelbo</i></u>
Date:	<u>7/21/00</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