

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

IN THE MATTER OF THE APPLICATION OF) MIDSTATE TELECOM, INC. FOR A) CERTIFICATE OF AUTHORITY TO PROVIDE) LOCAL EXCHANGE SERVICES IN SOUTH) DAKOTA)) ORDER GRANTING) CERTIFICATE OF) AUTHORITY AND ORDER) GRANTING PETITION FOR) WAIVER) TC01-007
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On January 18, 2001, the Public Utilities Commission (Commission) received an application for a certificate of authority from Midstate Telecom, Inc. (Midstate) and for approval of its intrastate switched access tariff no. 1 which is concurrent with the rates, terms, and conditions of the current LECA tariff no. 1, with the exception of the switched access rates, which are based upon a statewide average. Additionally, Midstate requested an exemption from the requirement to develop intrastate switched access rates based on company specific costs.

Midstate proposes to offer local exchange telecommunications services in South Dakota. A proposed tariff was filed by Midstate.

On January 25, 2001, the Commission electronically transmitted notice of the filing and the intervention deadline of February 9, 2001, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled April 17, 2001, meeting, the Commission considered Midstate's request for a certificate of authority, and its intrastate switched access tariff no. 1 and a waiver from establishing switched access rates based on company specific costs. Commission Staff recommended granting a certificate of authority, subject to a continuous \$25,000 surety bond, and subject to rural safeguards. Commission Staff further recommended a waiver of ARSD 20:10:32:03(11) and (14). Staff recommended approving the switched access tariff no. 1 and granting the exception for one year.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-18, 49-31-19, 49-31-69 and ARSD 20:10:27:11 and ARSD 20:10:32:03. The Commission finds that Midstate has met the legal requirements established for the granting of a certificate of authority. Midstate 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 subparagraphs (11) and (14) of ARSD 20:10:32:03 and grant the petition for exemption from developing company specific cost-based switched access rates pursuant to ARSD 20:10:27:11 for one year and approve Midstate's intrastate switched access tariff no. 1 pursuant to ARSD 20:10:27:12.

The Commission approves Midstate's application for a certificate of authority, subject to a continuous \$25,000 surety bond, and subject to rural safeguards, and grants the petition for exemption from developing company specific cost-based switched access rates pursuant to ARSD 20:10:27:11 for one year and approves Midstate's intrastate

switched access tariff no. 1 pursuant to ARSD 20:10:27:12. The certificate of authority for Midstate 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 Midstate choose to provide local exchange services statewide, with respect to rural telephone companies, Midstate 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 Midstate's application for a certificate of authority to provide local exchange services is granted, subject to a continuous \$25,000 surety bond; and it is

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

FURTHER ORDERED, that the Commission shall authorize Midstate 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 subparagraphs (11) and (14) of ARSD 20:10:32:03; and it is

FURTHER ORDERED, that Midstate's petition to be exempt from establishing company specific cost-based switched access rates is granted for one year and its intrastate switched access tariff no. 1 is approved.

Dated at Pierre, South Dakota, this 24th day of April, 2001.

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>Nelline Kelso</u>
Date:	<u>4/24/01</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

James A. Burg
JAMES A. BURG, Chairman

Pam Nelson
PAM NELSON, Commissioner