

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

**IN THE MATTER OF THE APPLICATION OF)
COMTECH 21, LLC FOR A CERTIFICATE OF)
AUTHORITY TO PROVIDE LOCAL EXCHANGE)
SERVICES IN SOUTH DAKOTA)**

**ORDER GRANTING
CERTIFICATE OF
AUTHORITY**

TC04-023

On February 9, 2004, the Public Utilities Commission (Commission) received an application for a certificate of authority from COMTECH 21, LLC (COMTECH 21).

COMTECH 21 proposes to offer competitive local exchange services throughout South Dakota. A proposed tariff was filed by COMTECH 21.

On February 12, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of February 27, 2004, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled March 2, 2004, meeting, the Commission considered COMTECH 21's request for a certificate of authority. Commission Staff recommended granting a certificate of authority, subject to rural safeguards, and subject to the condition that COMTECH 21 not offer any prepaid services (including prepaid calling cards) and not accept or require any deposits or advance payments without prior approval of the Commission. Staff also recommended that COMTECH 21 file a tariff with the Commission that includes rate information when it enters into an interconnection agreement. Commission Staff further recommended a waiver of ARSD 20:10:32:03(13).

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 COMTECH 21 has met the legal requirements established for the granting of a certificate of authority. COMTECH 21 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 (13) of ARSD 20:10:32:03.

The Commission approves COMTECH 21's application for a certificate of authority, subject to rural safeguards, subject to the condition that COMTECH 21 not offer any prepaid services (including prepaid calling cards) and not accept or require any deposits or advance payments without prior approval of the Commission, and subject to the condition that COMTECH 21 file a tariff with the Commission that includes rate information when it enters into an interconnection agreement. The certificate of authority for COMTECH 21 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 COMTECH 21 choose to provide local exchange services statewide, with respect to rural telephone companies, COMTECH 21 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 COMTECH 21's application for a certificate of authority to provide local exchange services is granted, effective April 9, 2004, subject to the condition that COMTECH 21 not offer any prepaid services (including prepaid calling cards) and not accept or require any deposits or advance payments without prior approval of the Commission, and subject to the condition that COMTECH 21 file a tariff with the Commission that includes rate information when it enters into an interconnection agreement; and it is

FURTHER ORDERED, that COMTECH 21 shall file informational copies of tariff changes with the Commission as the changes occur; and it is

FURTHER ORDERED, that the Commission shall authorize COMTECH 21 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 waives subparagraph (13) of ARSD 20:10:32:03.

Dated at Pierre, South Dakota, this 9th day of March, 2004.

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>Delaine Kalbo</u>
Date:	<u>3/9/04</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Robert K. Sahr
ROBERT K. SAHR, Chairman *RS*

Gary Hanson
GARY HANSON, Commissioner

James A. Burg
JAMES A. BURG, Commissioner