

**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 AND ORDER</b>
<b>LOCAL EXCHANGE SERVICES IN SOUTH )</b>	<b>GRANTING PETITION FOR</b>
<b>DAKOTA )</b>	<b>WAIVER</b>
<b>)</b>	<b>TC06-063</b>

On June 16, 2006, the Public Utilities Commission (Commission) received an application for a certificate of authority from 360networks (USA) inc. (360networks) and for approval of its intrastate switched access tariff no. 1. Additionally, 360networks filed a petition for an exemption from the requirement to develop intrastate switched access rates based on company specific costs pursuant to ARSD 20:10:27:11 and a waiver of the use of the formula in ARSD 20:10:27:12 and ARSD 20:10:27:13, and be allowed to use a blended average of Qwest Corporation tariffed access rates. 360networks also requested a waiver of ARSD 20:10:32:03(13).

360networks proposes to offer wholesale switched access local telecommunications services only. A proposed switched access tariff was filed by 360networks.

On June 22, 2006, the Commission electronically transmitted notice of the filing and the intervention deadline of July 7, 2006, to interested individuals and entities. On June 28, 2006, the Commission received a Petition to Intervene from South Dakota Telecommunications Association (SDTA). At its regularly scheduled meeting of July 11, 2006, the Commission granted intervention to SDTA. At its regularly scheduled meeting of August 23, 2006, the Commission considered 360networks' 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.

Staff recommended the Commission grant 360networks' waiver from ARSD 20:10:32:03(13) and approve the local exchange certificate with restrictions from providing retail end-user services, limiting 360networks to the provisioning of wholesale services to other telecommunications carriers only and subject to rural safeguards. Staff also recommended the Commission grant 360networks' petition from developing company specific cost-based rates, grant the waivers of ARSD 20:10:27:12 and ARSD 20:10:27:13 and allow 360networks to adopt a blended Qwest intrastate switched access rate and approve the switched access tariff. Staff also recommended that the Commission allow 360networks to file adjustments to its intrastate switched access tariff so long as those rate adjustments either mirror Qwest's rate or are lower. SDTA stated that it had no objection to the granting of the certificate of authority, subject to Staff's recommendations.

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 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 ARSD 20:10:27:12, ARSD 20:10:27:13 and ARSD 20:10:32:03(13) and grant the petition for exemption from developing company specific cost-based switched access rates pursuant to ARSD 20:10:27:11 and approve 360networks' intrastate switched access tariff no. 1.

The Commission approves 360networks' application for a certificate of authority, subject to rural safeguards and subject to restrictions from providing retail end-user services limiting 360networks to the provision of wholesale services to other telecommunications carriers only and grants the petition for exemption from developing company specific cost-based switched access rates pursuant to ARSD 20:10:27:11 and approves 360networks' intrastate switched access tariff

no. 1. The certificate of authority for 360networks shall authorize it to offer wholesale switched access 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 to retail customers or in any rural service area, 360networks will be required to come before the Commission in another proceeding before being permitted to provide retail local exchange services or any local exchange service in any 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, subject to restrictions from providing retail end-user services limiting 360networks to the provision of wholesale services to other telecommunications carriers only; 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 wholesale 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 ARSD 20:10:27:12, ARSD 20:10:27:13 and ARSD 20:10:32:03(13); and it is further

ORDERED, that 360networks' petition to be exempt from establishing company specific cost-based switched access rates pursuant to ARSD 20:10:27:11 is granted, waivers of ARSD 20:10:27:12 and ARSD 20:10:27:13 are granted, that 360networks be allowed to use a blended average of Qwest Corporation's switched access rates and file adjustments to its switched access rates so long as those adjustments either mirror Qwest Corporation's rates or are lower or until the Commission shall otherwise order, and that 360networks' intrastate switched access tariff is approved, subject to these conditions.

Dated at Pierre, South Dakota, this 11<sup>th</sup> day of September, 2006.

<b>CERTIFICATE OF SERVICE</b>	
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>Melaine Kalbo</u>
Date:	<u>9/13/06</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Robert K. Sahr  
ROBERT K. SAHR, Chairman

Dustin M. Johnson  
DUSTIN M. JOHNSON, Commissioner

Gary Hanson  
GARY HANSON, Commissioner