

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

IN THE MATTER OF THE JOINT APPLICATION)
OF COMPUTER NETWORK TECHNOLOGY)
CORPORATION AND BANDWIDTH.COM CLEC,)
LLC FOR APPROVAL TO TRANSFER THE)
CERTIFICATE OF AUTHORITY FROM)
COMPUTER NETWORK TECHNOLOGY)
CORPORATION TO BANDWIDTH.COM CLEC,)
LLC)

**ORDER GRANTING
TRANSFER OF CERTIFICATE
OF AUTHORITY**

TC08-001

On January 8, 2008, the Public Utilities Commission (Commission), in accordance with SDCL 49-31-3 and ARSD 20:10:24:04.01 and 20:10:24:04.02, received an application for the transfer of a certificate of authority from Computer Network Technology Corporation (CNT) to Bandwidth.com CLEC, LLC (Bandwidth).

On January 9, 2008, the Commission electronically transmitted notice of the filing and the intervention deadline of January 25, 2008, to interested individuals and entities. No petitions to intervene or comments were filed and at its February 26, 2008, meeting, the Commission considered the request for transfer of certificate of authority. Commission Staff recommended transferring the certificate of authority from CNT to Bandwidth, subject to rural safeguards, and subject to the condition that Bandwidth 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 granting a waiver from ARSD 20:10:24:02 (9) and 20:10:32:03 (12) and that Bandwidth notify the Commission by letter when the purchase is complete.

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 considered Bandwidth's application at its regular meeting on February 26, 2008. The Commission found that Bandwidth has met the legal requirements established for the granting of a certificate of authority. Bandwidth 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. Bandwidth also demonstrated good and sufficient cause for the granting of waivers of ARSD 20:10:24:02 (9) and 20:10:32:03 (12).

The Commission approves Bandwidth's application for a transfer of a certificate of authority, subject to rural safeguards, and subject to the condition that Bandwidth 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. The certificate of authority for Bandwidth 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 Bandwidth choose to provide local exchange services statewide, with respect to rural telephone companies, Bandwidth 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 Bandwidth's application for a certificate of authority to provide interexchange telecommunications services and local exchange services is granted, subject to the condition that Bandwidth 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 it is

FURTHER ORDERED, that the Commission waives ARSD 20:10:24:02 (9) and 20:10:32:03 (12); and it is

FURTHER ORDERED, that the Commission shall authorize Bandwidth 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 Bandwidth shall notify the Commission by letter when the purchase is complete; and it is

FURTHER ORDERED, that this Order shall constitute the Certificate of Authority of Bandwidth.

Dated at Pierre, South Dakota, this 18th day of March 2008.

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, electronically.
By: <u><i>Amelia J. Gaudin</i></u>
Date: <u>3/18/08</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Steve Kolbeck
STEVE KOLBECK, Commissioner

Dustin M. Johnson
DUSTIN M JOHNSON, Commissioner *AC*