

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

<b>IN THE MATTER OF THE APPLICATION OF )</b>	
<b>NEUTRAL TANDEM-SOUTH DAKOTA, LLC )</b>	
<b>FOR A CERTIFICATE OF AUTHORITY TO )</b>	<b>ORDER GRANTING</b>
<b>PROVIDE FACILITIES-BASED AND RESOLD )</b>	<b>CERTIFICATE OF</b>
<b>LOCAL EXCHANGE AND INTEREXCHANGE )</b>	<b>AUTHORITY</b>
<b>TELECOMMUNICATIONS SERVICES IN )</b>	
<b>SOUTH DAKOTA )</b>	<b>TC10-017</b>

On February 11, 2010, Neutral Tandem-South Dakota, LLC (Neutral Tandem) filed an application for a Certificate of Authority to provide local exchange and interexchange services throughout South Dakota by utilizing a combination of resold services and facilities-based services. Neutral Tandem intends to initially offer transport and access services for competitive carriers.

On March 12, 2010, the Commission received a Petition to Intervene from South Dakota Telecommunications Association (SDTA) and from South Dakota Network (SDN), separately. On March 23, 2010, the Commission granted intervention to both parties that applied. On April 6, 2010, the Commission Ordered that the procedural schedule be set and be followed by the parties, except as otherwise stipulated by the parties or as otherwise be order by the Commission. On May 17, 2010, a Joint Stipulation of the Parties Resolving All Issues (Joint Stipulation) was received by the Commission.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-3 and ARSD 20:10:32:03.

In the Joint Stipulation, SDN and SDTA agreed to the issuance of Neutral Tandem-South Dakota's requested certificates of authority as long as the order issuing the certificates of authority incorporated the following agreement of the parties:

The parties agree that the Certificate of Authority granted by the Commission to Neutral Tandem would authorize Neutral Tandem to offer its services statewide throughout South Dakota. However, with respect to rural telephone companies, Neutral Tandem agrees that it would not provide local exchange telecommunications services directly to residential and business customers of rural telephone companies. The local exchange telecommunications services in rural telephone company service areas excluded from this certification include but are not limited to the direct provisioning of switched access telecommunications services, special access telecommunications services, and dedicated trunking facilities to either residential or business end user customers in rural telephone company service areas. The Commission Order related to Neutral Tandem's request for local service authority would provide that with respect to rural telephone companies, Neutral Tandem would have to come before the Commission in another proceeding before being able to directly provide any local exchange telecommunications services to either residential or business end user customers in rural telephone company service areas. In such subsequent proceeding, the provisions of 47 U.S.C. § 253(f), SDCL § 49-31-73, and the Commission's administrative rules, which allow 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)(l) for designation as an eligible telecommunications carrier, would apply. In addition, the granting of authority to

Neutral Tandem to offer its services statewide will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f).

In recognition of the centralized equal access configuration in South Dakota, Neutral Tandem agrees to deliver all interexchange traffic originating from and terminating to any customers of SDN's member company ILECs and affiliated CLECs via the SDN tandem switch in Sioux Falls, South Dakota. Nothing contained herein shall be construed as a limitation of any rights granted to SDN pursuant to the FCC Order in File No. W-P-C-6486, or in South Dakota Public Utilities Commission Order F3860.

The Commission finds that the conditions agreed to by the parties in the Joint Stipulation are reasonable conditions to enable Neutral Tandem to provide service in rural areas without it having first demonstrated compliance with the requirements of 47 U.S.C. §§ 253(f) and 214(e)(1), SDCL 49-31-73, and ARSD 20:10:32:15 and related rules. The Commission further finds that Neutral Tandem's certificate of authority should be subject to the condition that Neutral Tandem 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. Subject to such conditions, the Commission finds that Neutral Tandem has met the legal requirements established for the granting of a certificate of authority. Neutral Tandem has, in accordance with SDCL 49-31-3, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in South Dakota.

The Commission approves Neutral Tandem's application for a certificate of authority subject to the condition that Neutral Tandem 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 Neutral Tandem shall authorize it to offer local exchange and interexchange services throughout South Dakota, except for local exchange telecommunications services directly to residential and business customers of rural telephone companies. The local exchange telecommunications services in rural telephone company service areas excluded from this certification include but are not limited to the direct provisioning of switched access telecommunications services, special access telecommunications services, and dedicated trunking facilities to either residential or business end user customers in rural telephone company service areas. Neutral Tandem must come before the Commission in another proceeding before being authorized to directly provide any local exchange telecommunications services to either residential or business end user customers in rural telephone company service areas. In such subsequent proceeding, the provisions of 47 U.S.C. § 253(f), SDCL § 49-31-73, and the Commission's administrative rules, which allow 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, will apply. In addition, the granting of authority to Neutral Tandem to offer its services statewide will not affect the exemptions, suspensions, and modifications for rural telephone companies found in 47 U.S.C. § 251(f). Finally, until the further order of this Commission, Neutral Tandem shall deliver all interexchange traffic originating from and terminating to any customers of SDN's member company ILECs and affiliated CLECs via the SDN tandem switch in Sioux Falls, South Dakota. Nothing contained in this Order shall be construed as a limitation of any rights granted to SDN pursuant to the FCC Order in File No. W-P-C-6486, or in South Dakota Public Utilities Commission Order F3860. It is therefore

ORDERED, that Neutral Tandem's application for a certificate of authority to provide local exchange and interexchange services is granted, subject to the condition that Neutral Tandem 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. It is further

ORDERED, that this certificate of authority authorizes Neutral Tandem to provide local exchange and interexchange services in South Dakota, except to end user residential and business customers in those areas served by a rural telephone company as set forth in detail above. It is further

ORDERED, that Neutral Tandem shall deliver all interexchange traffic originating from and terminating to any customers of SDN's member company ILECs and affiliated CLECs via the SDN tandem switch in Sioux Falls, South Dakota. It is further

ORDERED, that this order constitutes Neutral Tandem's certificate of authority as described above. It is further

ORDERED that this docket is closed.

Dated at Pierre, South Dakota, this 3<sup>rd</sup> day of June, 2010.

<p align="center"><b>CERTIFICATE OF SERVICE</b></p> <p>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.</p> <p>By: <u><i>[Signature]</i></u></p> <p>Date: <u>06/03/10</u></p> <p align="center">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

*[Signature]*  
DUSTIN M. JOHNSON, Chairman

*[Signature]*  
STEVE KOLBECK, Commissioner

*[Signature]*  
GARY HANSON, Commissioner