

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

**IN THE MATTER OF THE APPLICATION OF)
MAGICJACK SMB, INC. FOR A CERTIFICATE OF)
AUTHORITY TO PROVIDE LOCAL EXCHANGE)
AND INTEREXCHANGE LONG DISTANCE)
SERVICES IN SOUTH DAKOTA)**

**ORDER GRANTING
CERTIFICATE OF
AUTHORITY**

TC17-012

On April 6, 2017, the South Dakota Public Utilities Commission (Commission) received a filing from MAGICJACK SMB, INC. (MAGICJACK SMB) for a Certificate of Authority to provide local exchange and interexchange long distance services in South Dakota to business customers by using interconnected Voice over Internet Protocol. MAGICJACK SMB intends to provide local exchange services in the non-rural (CenturyLink) service territory.

On April 13, 2017, the Commission electronically transmitted notice of the filing and the intervention deadline of April 28, 2017, to interested individuals and entities. No petitions to intervene or comments were filed. On April 25, and April 28, 2017, MAGICJACK SMB responded to Staff's data requests. On May 9, 2017, the Commission deferred this docket to the May 23, 2017, Commission meeting. On May 15, 2017, MAGICJACK SMB responded to the Commission's data requests.

At its May 23 2017, meeting, the Commission considered this matter. Commission staff recommended granting a certificate of authority with the conditions that, for retail purposes, MAGICJACK SMB 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 be subject to rural safeguards.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapter 49-31, specifically 49-31-3 and 49-31-69 through 49-31-75, as well as ARSD 20:10:32:03. The Commission finds that MAGICJACK SMB has met the legal requirements established for the granting of a Certificate of Authority. MAGICJACK SMB 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.

The Commission voted unanimously to approve MAGICJACK SMB's application for a certificate of authority subject to the conditions that, for retail purposes, MAGICJACK SMB 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 be subject to rural safeguards. The certificate of authority for MAGICJACK SMB shall authorize it to provide local exchange telecommunications service in South Dakota, except in those areas served by a rural telephone company. In the future, should MAGICJACK SMB choose to provide local exchange services statewide, with respect to rural telephone companies, MAGICJACK SMB 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 MAGICJACK SMB's application for a certificate of authority to provide interexchange services in South Dakota is granted. It is further

ORDERED, that MAGICJACK SMB's request for a certificate of authority to provide local exchange services is granted, subject to the conditions that, for retail purposes, MAGICJACK SMB 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 rural safeguards. It is further

ORDERED, that this certificate of authority authorizes MAGICJACK SMB to offer its local exchange services in South Dakota, except in those areas served by a rural telephone company. It is further

ORDERED, that this order constitutes MAGICJACK SMB's Certificate of Authority as described above.

Dated at Pierre, South Dakota, this 30th day of May, 2017.

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 or by mail.
By: <u>Adrian JettHueck</u>
Date: <u>5/30/17</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Kristie Fiegen

KRISTIE FIEGEN, Chairperson

Gary Hanson

GARY HANSON, Commissioner

Ch. Nelson

CHRIS NELSON, Commissioner