

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

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

**ORDER GRANTING
CERTIFICATE OF
AUTHORITY**

TC17-067

On November 29, 2017, the South Dakota Public Utilities Commission (Commission) received a filing from Birch Communications, Inc. (Birch) for a certificate of authority to provide local exchange service in South Dakota. According to the filing, this application is being filed in connection with an internal corporate reorganization pursuant to which Birch will serve large business customers and Birch's wholly owned subsidiary, Ionex Communications North, Inc., will serve residential and single-line business customers. On December 4, 2017, Birch supplemented its application to include interexchange long distance services.

On December 7, 2017, the Commission electronically transmitted notice of the filing and the intervention deadline of December 22, 2017, to interested individuals and entities on the Commission's PUC Weekly Filing electronic listserv. No petitions to intervene or comments were filed. On January 10, 2018, Birch responded to Commission staff's data requests.

At its regularly scheduled meeting on February 8, 2018, the Commission considered this matter. Commission staff recommended granting a certificate of authority with the conditions that, for retail purposes, Birch 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 that Birch 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 20:10:24:02 and 20:10:32:03. The Commission finds that Birch has met the legal requirements established for the granting of a certificate of authority. Birch 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 Birch's application for a certificate of authority subject to the conditions that, for retail purposes, Birch 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. The certificate of authority for Birch 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 Birch choose to provide local exchange services statewide, with respect to rural telephone companies, Birch 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 Birch's application for a certificate of authority to provide interexchange services in South Dakota is granted. It is further

ORDERED, that Birch's request for a certificate of authority to provide local exchange services is granted, subject to the conditions that, for retail purposes, Birch 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 Birch 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 Birch's Certificate of Authority as described above.

Dated at Pierre, South Dakota, this 14th day of February 2018.

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>Karen E. Bremer</u>
Date: <u>02/14/18</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Kristie Fiegen
KRISTIE FIEGEN, Chairperson

Gary Hanson
GARY HANSON, Commissioner

Chris Nelson
CHRIS NELSON, Commissioner