

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION OF LEVEL 3 COMMUNICATIONS, LLC FOR A CERTIFICATE OF AUTHORITY TO PROVIDE TELECOMMUNICATIONS SERVICES, INCLUDING LOCAL EXCHANGE SERVICES, IN SOUTH DAKOTA)))))))	ORDER GRANTING CERTIFICATE OF AUTHORITY TC99-015
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On February 16, 1999, the Public Utilities Commission (Commission) received an application for a certificate of authority from Level 3 Communications, LLC (Level 3).

Level 3 proposes to offer all forms of facilities-based and resold local exchange services. It also intends to offer intrastate interexchange services. A proposed tariff was filed by Level 3.

On February 18, 1999, the Commission electronically transmitted notice of the filing and the intervention deadline of March 5, 1999, to interested individuals and entities. No petitions to intervene or comments were filed and at its regularly scheduled April 26, 1999, meeting, the Commission considered Level 3's request for a certificate of authority. Commission Staff recommended granting a certificate of authority, subject to rural safeguards, subject to Level 3 furnishing the Commission with a surety bond, and subject to the condition that Level 3 not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission. Commission Staff further recommended a waiver of 20:10:24:02(8) and 20:10:32:03(8), (11) and (13).

The Commission finds that it has jurisdiction over this matter pursuant to 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 finds that Level 3 has met the legal requirements established for the granting of a certificate of authority. Level 3 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. Further, the Commission finds that there is good cause to waive subparagraph (8) of ARSD 20:10:24:02 and subparagraphs (8), (11) and (13) of ARSD 20:10:32:03.

The Commission approves Level 3's application for a certificate of authority, subject to rural safeguards, subject to Level 3 furnishing the Commission with a surety bond, and subject to the condition that Level 3 not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission. The certificate of authority for Level 3 shall authorize it to offer local exchange services in those areas in South Dakota where U S WEST Communications, Inc. is the incumbent local exchange carrier. In the future, should Level 3 choose to provide local exchange services statewide, with respect to rural telephone companies, Level 3 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 Level 3's application for a Certificate of Authority to provide telecommunications services, including local exchange services, is granted, subject to Level 3 furnishing the Commission with a surety bond, and subject to the condition that Level 3 not offer a prepaid calling card or require deposits or advance payments without prior approval of the Commission; and it is

FURTHER ORDERED, that Level 3 shall file informational copies of tariff changes with the Commission as the changes occur; and it is

FURTHER ORDERED, that the Commission shall authorize Level 3 to offer its local exchange services in those areas in South Dakota where U S WEST Communications, Inc. is the incumbent local exchange carrier; and it is

FURTHER ORDERED, that the Commission finds good cause to waive subparagraph (8) of ARSD 20:10:24:02 and subparagraph (8), (11) and (13) of ARSD 20:10:32:03.

Dated at Pierre, South Dakota, this 5th day of May, 1999.

CERTIFICATE OF SERVICE

BY ORDER OF THE COMMISSION:

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: _____

Date: _____

(OFFICIAL SEAL)

JAMES A. BURG, Chairman

PAM NELSON, Commissioner

LASKA SCHOENFELDER, Commissioner