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November 18, 2004

Karen Cremer  
South Dakota Public Utilities Commission  
500 East Capitol Avenue  
Pierre, South Dakota 57501

**RECEIVED**

NOV 18 2004

Re: Docket TC04-213  
Our File Number 04-218      Sioux Valley Telephone

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

Dear Karen:

Enclosed herein are the original and ten copies of Sioux Valley's Petition to Intervene in the above-named docket.

By copy of this letter, I am also serving David A. LaFuria and Richard J. Helsper, as indicated on the Certificate of Service attached to the Petition.

Sincerely yours,



Darla Pollman Rogers  
Attorney at Law

DPR/ph

Enclosures

CC: Dennis Law

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION  
OF BROOKINGS MUNICIPAL  
UTILITIES d/b/a SWIFTEL  
COMMUNICATIONS FOR  
DESIGNATION AS AN ELIGIBLE  
TELECOMMUNICATIONS CARRIER  
UNDER 47 U.S.C. § 214(e)(2)

Docket No. TC04-213  
PETITION TO INTERVENE **RECEIVED**

NOV 18 2004

**SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION**

Pursuant to ARSD 20:10:01:15.02 through 20:10:01:15.05, Sioux Valley Telephone Company ("Sioux Valley") petitions to intervene in Docket Number TC04-213 for the following reasons:

1. Sioux Valley is headquartered in Dell Rapids, South Dakota, is an independent, facilities-based, incumbent local exchange company offering local exchange service in several exchanges in South Dakota. Sioux Valley is also a "rural telephone company" as defined in 47 U.S.C. § 153(37) and SDCL 49-31-1(22).

2. Brookings Municipal Utilities d/b/a Swiftel Communications ("Swiftel") has applied to the South Dakota Public Utilities Commission ("Commission") to be designated as an eligible telecommunications carrier ("ETC") for purposes of qualifying to obtain federal universal service support in the study areas of several rural telephone companies, including portions of the South Dakota study area of Sioux Valley. Exhibit D of Swiftel's Application indicates that Swiftel seeks to be designated an ETC in all or parts of five of Sioux Valley's seven South Dakota exchanges.

3. The criteria for designation of ETC status are found in 47 U.S.C. § 214(e), 47 C.F.R. § 54.101(a), SDCL 49-31-78, and ARSD 20:10:32:42 through 49.

Pursuant to these sections of state and federal law, the Commission has authority to grant or deny a petition for designation of a carrier as an ETC.

4. Swiftel has applied for ETC designation in portions of Sioux Valley's South Dakota study area. Sioux Valley disputes Swiftel's request on the following grounds:

A. Swiftel is unable to provide the services and functionalities required by the FCC in 47 C.F.R. § 54.201.

B. 47 U.S.C. § 214(e)(1)(A) and ARSD 20:10:32:42 require that a common carrier seeking designation as an ETC must provide those services required by 47 C.F.R. 54.101 throughout the service area for which the designation is sought. Swiftel fails to satisfy these requirements and is unable to provide services throughout and coextensive with Sioux Valley's entire study area, as required by 47 U.S.C. § 214(e)(1)(A) of the Act, and ARSD 20:10:32:42.

C. Granting Swiftel ETC status within parts of Sioux Valley's service area is not consistent with the public interest, convenience and necessity of Sioux Valley's customers as required by 47 U.S.C. § 214(e)(2) and ARSD 20:10:32:42.

D. Granting Swiftel ETC designation in portions of Sioux Valley's service area is not in the public interest, as required by 47 U.S.C. § 214(e)(2), SDCL 49-31-78, and ARSD 20:10:32:42.

E. Sioux Valley and its customers will experience an unwarranted and adverse economic impact, such as being subjected to unfair, uneconomic competition, if Swiftel is granted ETC status in portions of Sioux Valley's service area.

5. Sioux Valley asserts that this Commission's designation of Swiftel as an ETC would result in the increase of the total costs of providing universal service support to all of the consumers within Sioux Valley's study area, and a potential reduction in funding to incumbent ETC's, thereby producing rate increases and decreases in services and infrastructure investment.

6. To accomplish ETC status in a portion of the exchanges of Sioux Valley's South Dakota study area and in only parts of some of those exchanges, Swiftel requests that the Commission redefine Sioux Valley's rural service area. As described in Section V of the application, the Commission, in reviewing the request, will consider various criteria that impact Sioux Valley and the public interest in rural South Dakota.

7. Sioux Valley believes it has a direct and significant interest in this docket, and that any decision by the Commission will affect the ability of Sioux Valley to provide modern telecommunications services in its service area.

8. Sioux Valley desires to intervene in order to have party status in this docket, which enables Sioux Valley to receive documents, comment, present testimony, cross-examine witnesses, and produce evidence in opposition to the application of Swiftel.

9. Sioux Valley is entitled to be granted intervention in this docket pursuant to ARSD 20:10:01:15.05 because the outcome of this proceeding may have a profoundly adverse effect on Sioux Valley.

WHEREFORE, Sioux Valley respectfully requests that its Petition to Intervene be granted and that Sioux Valley be authorized to participate in the above-entitled proceeding with full rights as a formal party.

DATED this 18<sup>th</sup> day of November, 2004.



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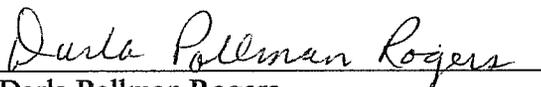
**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she served a copy of the foregoing **PETITION TO INTERVENE** upon the persons herein next designated, on the date below shown, by depositing a copy thereof in the United States mail at Pierre, South Dakota, postage prepaid, in an envelope addressed to said addressee, to-wit:

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Washington, D.C. 20036

Richard J. Helsper  
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100 22<sup>nd</sup> Avenue, Suite #200  
Brookings, SD 57006

Dated this 18<sup>th</sup> day of November, 2004.



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