

LAW OFFICES
RITER, ROGERS, WATTIER & BROWN, LLP
Professional & Executive Building
319 South Coteau Street
P.O. Box 280
Pierre, South Dakota 57501-0280
www.riterlaw.com

ROBERT C. RITER, Jr.
DARLA POLLMAN ROGERS
JERRY L. WATTIER
JOHN L. BROWN

MARGO D. NORTHRUP, Associate

October 25, 2005

OF COUNSEL:
Robert D. Hofer
E. D. Mayer
TELEPHONE
605-224-5825
FAX
605-224-7102

RECEIVED
OCT 29 2005
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Pamela Bonrud, Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

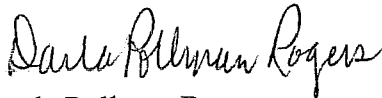
Re: Docket TC05-137

Dear Pam:

Please find enclosed herein for filing original and ten copies of Petitioners' Motion to Limit the Scope of Issues and Request for Immediate Temporary Suspension in the above-named docket.

By copy of this letter, I am serving the Motion on those persons named on the Certificate of Service.

Sincerely yours,



Darla Pollman Rogers
Attorney at Law

DPR/ph

CC: Service List (with enclosure)
Petitioners (with enclosure)

RECEIVED

DEC 18 2005

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE JOINT PETITION FOR EXTENSION OF SUSPENSION DATE AND THE DATE TO FILE FURTHER SUSPENSION REQUEST

DOCKET NUMBER TC05-137

MOTION TO LIMIT
THE SCOPE OF ISSUES

Motion to Limit the Scope of Issues and Request for Immediate Temporary Suspension

Petitioners in the above-named docket, by their attorneys, hereby request that the Commission limit the scope of issues to be examined in the Commission's proceeding in Docket TC05-137 to those raised by Petitioners in their Petition filed on August 4, 2005. Further, in light of the Commission setting this matter for hearing on December 6-8, 2005, Petitioners request an immediate temporary suspension of the December 30, 2005, LNP implementation date.

In their Petition, the Petitioners asked the Commission to extend the date by which Petitioners must file their requests to extend the suspension of the local number portability (LNP) requirement and to extend the date of the LNP suspensions granted to each Petitioner. Petitioners requested the extensions because the United States Court of Appeals for the District of Columbia Circuit issued an Order remanding the FCC's Intermodal Order, and stayed future enforcement of that order as applied to "small entity" carriers until the FCC completes a final regulatory flexibility analysis (RFA) and publishes it in accordance with 5 U.S.C. §604(b). Further, the FCC made it clear that intermodal porting rules for small entities may be modified as a result of the FCC's RFA proceeding. Therefore, Petitioners argued that it is not possible to know whether, to what

extent, or how the Petitioners will be required to provide intermodal LNP or to accurately estimate the cost of LNP until the FCC's proceeding is concluded.

Petitioners asked the Commission to extend the suspension of LNP for each Petitioner until six (6) months after the FCC completes its final RFA and publishes it in accordance with 5 U.S.C. §604(b). Petitioners also requested that, should they wish to continue the suspension beyond the six-month period, the Commission extend the time for filing such a petition for suspension until three (3) months after the FCC completes its final RFA and publishes it as required.

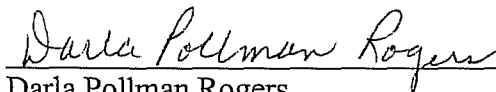
Petitioners believe the matter before the Commission is a simple one, namely, whether and how the procedural schedule already approved by the Commission with respect to the LNP suspensions granted to Petitioners should be modified in light of the intervening actions of the federal court and FCC. The current Petition does not ask the Commission to reexamine the information presented in the original requests for suspension concerning the implementation and cost of LNP, and no such evaluation is necessary to answer the question raised. In fact, because the FCC has made clear that the LNP obligations of Petitioners may change as a result of the FCC's RFA, no such analysis is possible.

While Petitioners believe the question before the Commission is a simple and straightforward one, Petitioners have become concerned that Intervenors see this proceeding as an opportunity to re-argue the original LNP suspension cases or to essentially require Petitioners to make new LNP technical, cost and public interest showings. Petitioners believe this is beyond the scope of the Petition, and ask the Commission to so rule. Specifically, Petitioners ask the Commission to rule that the proceeding is limited to

the question presented by Petitioners, namely, whether the Commission should extend the deadlines in the LNP orders, as requested by Petitioners, in light of the actions of the federal court and the FCC.

Moreover, because of the Intervenor's insistence that this proceeding requires extensive discovery and numerous days of hearings, the hearing for this proceeding has been set for December 6-8, 2005. Since the Commission granted a suspension of LNP for Petitioners until December 30, 2005, it is clear that this proceeding will not be concluded in time for the Petitioners to implement LNP if the Petition is denied. Accordingly, Petitioners ask the Commission to grant an immediate, temporary suspension of the LNP requirements until after its ruling on the pending Petition becomes final.

Dated this 25th day of October, 2005.



Darla Pollman Rogers
Riter, Rogers, Wattier & Brown, LLP
P. O. Box 280
Pierre, South Dakota 57501
Telephone (605) 224-7889
Fax (605) 224-7102

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the DISCOVERY REQUESTS OF PETITIONERS TO MIDCONTINENT was served via the method(s) indicated below, on the 25th day of October, 2005, addressed to:

Talbot J. Wieczorek
Gunderson, Palmer, Goodsell & Nelson, LLP
P. O. Box 8045
Rapid City, South Dakota 57709

(X) First Class Mail
() Hand Delivery
() Facsimile
() Overnight Delivery
() E-Mail

Richard J. Helsper
Glover, Helsper and Rasmussen, P.C.
100 Twenty-Second Avenue, Suite 200
Brookings, South Dakota 57006

(X) First Class Mail
() Hand Delivery
() Facsimile
() Overnight Delivery
() E-Mail

Richard D. Coit, Executive Director
South Dakota Telecommunications Ass'n
P. O. Box 57
Pierre, South Dakota 57501

(X) First Class Mail
() Hand Delivery
() Facsimile
() Overnight Delivery
() E-Mail

Mary J. Sisak
Benjamin H. Dickens, Jr.
Blooston, Mordkofsky, Dickens, Duffy & Prendergast
2120 L. Street NW #300
Washington, DC 20037

(X) First Class Mail
() Hand Delivery
() Facsimile
() Overnight Delivery
() E-Mail

David A. Gerdes
May, Adam, Gerdes & Thompson
503 S. Pierre Street
P. O. Box 160
Pierre, South Dakota 57501

(X) First Class Mail
() Hand Delivery
() Facsimile
() Overnight Delivery
() E-Mail

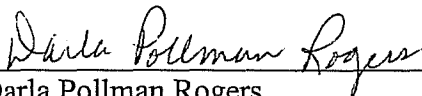
Jeffrey D. Larson
Larson and Nipe
P. O. Box 277
Woonsocket, South Dakota 57385-0277

(X) First Class Mail
() Hand Delivery
() Facsimile
() Overnight Delivery
() E-Mail

Rolayne Ailts Wiest, General Counsel
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

() First Class Mail
(X) Hand Delivery
() Facsimile
() Overnight Delivery
() E-Mail

Dated this 25th day of October, 2005.



Darla Pollman Rogers
Riter, Rogers, Wattier & Brown, LLP
P. O. Box 280
Pierre, South Dakota 57501
Telephone (605) 224-7889
Fax (605) 224-7102