

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

In the Matter of the Petition of Sprint)	
Communications Company L.P. for)	DOCKET TC06-176
Arbitration Pursuant to the)	
Telecommunication Act of 1996 to)	
Resolve Issues Relating to an)	
Interconnection Agreement with)	
Brookings Municipal Utilities d/b/a)	
Swiftel Communications)	

**BRIEF IN SUPPORT OF SPRINT’S REQUEST TO COMMISSION
TO ALLOW MULTIPLE ATTORNEYS TO CROSS-EXAMINE
RESPONDENT’S WITNESSES**

Petitioner Sprint Communications Company, L.P. (“Sprint”), by and through its counsel of record, Talbot J. Wieczorek of Gunderson Palmer Goodsell & Nelson, LLP, its attorneys, respectfully submits this Brief in Support of Sprint’s Request to Commission to Allow Multiple Attorneys to Cross-Examine Respondent’s Witnesses.

ARGUMENT

As the Commission is aware, the arbitration petition submitted the issues on the interconnection agreement between Sprint and Swiftel Communications (hereinafter “Swiftel”) in an orderly numbered fashion. Sprint’s witnesses then took specific issues and provided testimony on specific issues. In the testimony provided by Swiftel, Swiftel’s witnesses took multiple issues from both of Sprint’s witnesses and more generally covered all issues.

As the Commission is aware, the issues presently before the Commission are highly complex and technical. The attorneys representing Sprint have each concentrated on specific technical issues in this matter. Allowing the attorney with the working knowledge on each

specific issue to cross-examine Respondent's expert witnesses regarding the particular issues will provide for the most efficient use of the Commission's time and allow the evidence to be presented in a clear and concise manner.

Because of the complex nature of these proceedings and the specific technical issues, having an attorney who is intimately familiar with the specific issue to perform examination and cross-examination is beneficial not only in making sure the hearing time is well used, the questions are concise and due efficiency of the process, the attorney most familiar with a specific issue will ask the most direct and concise questions and the evidentiary record will be therefore, more complete. Obviously, the Commission should allow this for all parties. The inherent ability to of the Commission to allow this type of procedure exists.

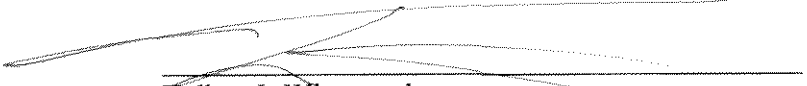
Tribunals have discretion to allow multiple attorneys for one party to examine or cross-examine one witness. "[I]t is within the discretion of the trial judge to permit two counsel on the same side to examine a witness." 98 C.J.S. *Witnesses*, §391 (2007). Even in the case of jury trials, South Dakota statute acknowledges that it is within the court's discretion to authorize such examination. SDCL § 15-14-15 provides, "Unless by leave of court, one counsel only on each side shall be entitled to examine or cross-examine a witness." Had the Legislature intended to mandate only one counsel per party be permitted to examine or cross-examine a witness, this phrase would have been omitted. Therefore, in the interests of judicial economy, Sprint respectfully requests this Commission to exercise its discretion and authorize multiple attorneys for Sprint to cross-examine Respondent's expert witnesses. Cross-examination in this fashion will serve the best interests of the Commission by allowing the most efficient cross-examination, expediting the hearing process. Additionally, the Commission will maintain authority to restrain cross-examination should it become duplicative.

In the present situation, allowing more than one attorney to cross-examine the expert witnesses of Respondent would, in fact, be the best the Commission's time. When Sprint submitted testimony in preparation for this hearing, certain experts testified regarding certain issues, while other experts testified regarding other specific issues. Counsel for Sprint had divided preparation of the testimony by expert, with one attorney becoming familiar with the testimony of one witness, thereby also becoming familiar with the technical issues addressed by such testimony. When Swiftel submitted its testimony, its witnesses testified in response to the issues testified to by each of Sprint's experts. Due to the manner in which testimony was submitted, counsel for Sprint will be required to cross-examine Swiftel's witnesses on each of the highly-technical issues presented to the Commission. Permitting only one attorney to cross-examine each of the witnesses will require that attorney to cross-examine experts regarding issues with which the attorney is less familiar than co-counsel. This may result in unfocused and inefficient cross-examination, which will require more of the Commission's time.

CONCLUSION

Based upon the above reasoning and authority, Petitioner Sprint Communications Company L.P., respectfully requests the Commission grant leave authorizing multiple attorneys to cross-examine each of Respondent's expert witnesses.

Respectfully submitted this 9th day of April, 2007.


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CERTIFICATE OF SERVICE

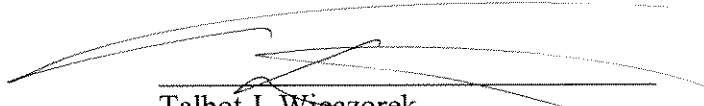
The undersigned certifies that on this 9 day of April, 2007, a copy of **Brief in Support of Sprint's Request to Commission to Allow Multiple Attorneys to Cross-Examine Respondent's Witnesses** was served via email and first class mail to:

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