

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

**In the Matter of Sprint Communications)
Company L.P.'s Petition for Authority to Provide) Docket No. TC06-178
Local Exchange Service in Certain Rural Areas)
Served by City of Brookings d/b/a Swiftel)
)**

**Direct Testimony of James R. Burt
On Behalf of Sprint Communications Company L.P.
July 9, 2008**

1 **Q. Please state your name, business address, employer and current position.**

2 A. My name is James R. Burt. My business address is 6450 Sprint Parkway, Overland Park,
3 KS 66251. I am employed as Director – Policy for Sprint Nextel.

4
5 **Q. Please summarize your educational and professional background.**

6 A. I received a Bachelor of Science degree in Electronics Engineering from the University
7 of South Dakota – Springfield in 1980 and a Masters in Business Administration from
8 Rockhurst College in 1989.

9 I became Director – Policy in February of 2001. I am responsible for developing state
10 and federal regulatory policy and legislative policy for Sprint Nextel, including the
11 coordination of regulatory and legislative policies across the various Sprint business units
12 and the advocacy of such policies before regulatory and legislative bodies. In addition, I
13 interpret various orders, rules, or laws for implementation by Sprint Nextel.

14 From 1997 to February of 2001, I was Director-Local Market Planning. I was
15 responsible for policy and regulatory position development and advocacy from a CLEC
16 perspective. In addition, I supported Interconnection Agreement negotiations and had
17 responsibility for various other regulatory issues pertaining to Sprint’s CLEC efforts.

18 From 1996 to 1997, I was Local Market Director responsible for Sprint’s Interconnection
19 Agreement negotiations with BellSouth.

20 I was Director – Carrier Markets for Sprint’s Local Telecom Division from 1994 to 1996.
21 My responsibilities included inter-exchange carrier account management and
22 management of one of Sprint’s Inter-exchange Carrier service centers.

23 From 1991 to 1994, I was General Manager of United Telephone Long Distance, a long
24 distance subsidiary of Sprint/United Telephone Company. I had P&L, marketing and
25 operations responsibilities.

26 From 1989 to 1991, I held the position of Network Sales Manager responsible for sales of
27 business data and network solutions within Sprint's Local Telecom Division.

28 From 1988 to 1989, I functioned as the Product Manager for data and network services
29 also for Sprint's Local Telecom Division.

30 Prior to Sprint I worked for Ericsson Inc. for eight years with positions in both
31 engineering and marketing.

32

33 **Q. Have you testified before any regulatory commissions?**

34 A. Yes. I have testified in Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana,
35 Maryland, Nebraska, North Carolina, Ohio, Oklahoma, Pennsylvania, Texas and
36 Wisconsin and have supported the development of testimony in many other states.

37

38 **Q. On whose behalf are you testifying?**

39 A. I am testifying on behalf of Sprint Communications Company L.P. ("Sprint").

40

41 **Q. What is the purpose of your testimony in this cause?**

42 A. The purpose of my testimony is to support the application of Sprint Communications
43 Company L.P. to provide local exchange service in the territory served by Brookings
44 Municipal Utilities d/b/a Swiftel Communications ("Swiftel"). More specifically, I
45 intend to:

- 46 • Briefly describe the facilities-based local voice service that Sprint, together with other
47 competitive service providers such as MCC Telephony of the Midwest, Inc.
48 (“MCC”), seeks to offer to all customers of such services in South Dakota, and more
49 specifically, the areas served by Swiftel;
- 50 • Define the service territory for which Sprint is seeking to expand its operating
51 authority within the state of South Dakota; and
- 52 • Describe Sprint’s managerial, technical and financial qualifications and how Sprint
53 meets the requirements of 47 U.S.C. §214(e)(1) as required by §20:10:32:15.
54

55 **Q. Why is Sprint seeking to expand its local exchange services in South Dakota?**

56 **A.** Sprint is seeking to expand its local exchange services in South Dakota primarily for the
57 purposes of supporting the business model Sprint and MCC have chosen to utilize in the
58 Swiftel serving territory. In addition, Sprint may use its expanded certification for its
59 own retail offerings at some point in the future.
60

61 **Q. Can you describe your understanding of the current competitive environment in
62 Swiftel’s serving territory?**

63 **A.** Setting aside the discussion of the proposed services that are at issue in this proceeding,
64 currently there is little or no competition for wireline local voice services in Swiftel’s
65 serving territory. Swiftel is serving most, if not all, of the customers of local voice
66 services in its territory.
67

68 **Q. How will Sprint's service help introduce competition into Swiftel's serving**
69 **territory?**

70 **A.** The service resulting from Sprint's business model would be one of the first, if not the
71 first, competitive landline telecommunications ventures into Swiftel's serving territory.
72 In addition, the service does not require the customer to invest in a broadband connection
73 and a computer, which the customer would have to purchase to utilize an Internet-based
74 Voice over Internet Protocol ("VoIP") service. Sprint believes that there is a demand for
75 services provided by carriers other than Swiftel.

76
77 **Q. Please briefly describe the business model that Sprint has chosen to bring local voice**
78 **services to South Dakota consumers in Swiftel's serving territory.**

79 **A.** Sprint has chosen to combine and leverage resources, capabilities, expertise, assets and
80 market position with other competitive service providers, including MCC, to bring
81 facilities-based competitive voice services to consumers in South Dakota. These services
82 are positioned to compete directly with urban and rural Incumbent Local Exchange
83 Carrier ("ILEC") services. The model is simple. Sprint provides:

- 84 • end office switching;
- 85 • public switched telephone network ("PSTN") interconnectivity including all
86 inter-carrier compensation;
- 87 • numbering resources, administration and local number portability ("LNP");
- 88 • domestic and international toll service;
- 89 • operator and directory assistance; and
- 90 • numerous back-office functions.

91 In this case, MCC provides:

- 92 • last-mile facilities to the customer premise (commonly referred to as the
- 93 loop);
- 94 • sales;
- 95 • billing;
- 96 • customer service; and
- 97 • installation.

98 Attached hereto as Exhibit (JRB-1) is a diagram representing the Sprint/MCC network
99 configuration.

100

101 **Q. Is Sprint currently utilizing the Sprint/cable business model to provide local**
102 **exchange service to customers in South Dakota and other states?**

103 A. Yes. This business model has proven to be effective in providing over 3.5 million
104 consumers and businesses a viable alternative to their ILEC service in 39 states with 13
105 different cable companies.¹ Sprint is providing these services using its state-specific
106 CLEC authority and under approved interconnection agreements serving consumers in
107 urban, suburban and rural markets in 39 states, including South Dakota. Sprint continues
108 to look for additional relationships similar to those already established by it and
109 competitors seeking to compete with ILECs to provide local exchange services. In fact,
110 Sprint and MCC already provide service in Qwest territory in South Dakota utilizing this

¹ Sprint currently provides service using this business model in the following states: Alabama, Arkansas, Arizona, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Iowa, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Missouri, Mississippi, North Carolina, Nebraska, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin and West Virginia.

111 business model, pursuant to Certificates of Authority previously granted by this
112 Commission to both Sprint and MCC.

113

114 **Q. Is the proposed Sprint/MCC service in Swiftel territory any different from the**
115 **service Sprint and MCC are already providing in Qwest territory?**

116 A. No, not at all. It is exactly the same service. In fact, other than provisioning any
117 necessary facilities to interconnect Sprint's network to Swiftel's, Sprint will utilize the
118 exact same network equipment and facilities to provide service in Swiftel territory that
119 Sprint currently uses to provide service to Qwest customers.

120

121 **Q. Are any other companies providing local exchange service in South Dakota using**
122 **comparable technology?**

123 A. It is my understanding that Midcontinent, a cable company, is providing competitive
124 local voice service in Interstate territory using essentially the same technology. As I
125 understand it, the only difference is that Midcontinent contributes all of the pieces of the
126 service using its own network resources rather than providing service jointly with Sprint
127 or another carrier, as MCC has chosen to do. I have reviewed the call path diagrams²
128 filed by Midcontinent as Exhibits dated March 25, 2008 in Docket No. TC08-17 (Swiftel
129 petition for suspension of 251(f)(2) obligations), and it appears the way the Midcontinent
130 service works is essentially identical to the way the Sprint/MCC service works.

131

² <http://www.puc.sd.gov/Dockets/Telecom/2008/tc08-017.aspx>

132 **Q. Is the Sprint/MCC business relationship or the nature of the business model**
133 **relevant to Sprint’s request to expand its certification?**

134 A. No, it isn’t. The technology works, and the business model has been repeatedly
135 validated. As I explained above, Sprint is already utilizing this business model to serve
136 over 3.5 million customers nationwide, and Sprint and MCC are already providing
137 service under this business model to customers in Qwest territory in South Dakota. There
138 is no question the technology operates effectively, or that Sprint and MCC have the
139 technical, managerial, and financial capabilities to provide this service. Furthermore,
140 numerous federal district courts and the FCC have expressly approved this business
141 model. Following is a list of federal court and FCC dockets in which the business model
142 has been approved:

- 143 FCC – WC Docket No. 06-55
- 144 Southern District of Iowa – Docket Nos. 4:06 cv 00291 and 4:06 cv 00376
- 145 District of Nebraska – Docket No. 4:05 cv 3260
- 146 Southern District of Illinois – Docket No. 3:06 cv 00073
- 147 Western District of New York – Docket No. 6:05 cv 06502
- 148 Western District of Texas – Docket Nos. 1:06 cv 00065 and 1:06 cv 00825
- 149

150 **Q. Are Sprint’s technical, managerial and financial abilities comparable to those it had**
151 **when it was granted its Certificate of Authority in Docket No. TC96-156 authorizing**
152 **Sprint to offer local exchange telecommunications services?**

153 A. Yes. On or about April 28, 1997, the Public Utilities Commission of the State of South
154 Dakota (“Commission”), in its Order Granting Amended Certificate of Authority in
155 Docket No. TC96-156, authorized Sprint to offer local exchange telecommunications
156 services throughout South Dakota. The Commission concluded that Sprint demonstrated
157 adequate technical, managerial, and financial capabilities. There has been no material

158 change in the technical, managerial, or financial capacities of Sprint since that Order was
159 issued; therefore Sprint continues to possess sufficient technical, managerial, and
160 financial ability to offer the services certificated previously. Following is the URL
161 address for Sprint’s 2007 annual report and 10-K, further demonstrating that Sprint
162 maintains adequate technical, managerial and financial ability:
163 http://media.corporate-ir.net/media_files/irol/12/127149/200710K.pdf. In addition,
164 attached as Exhibit (JRB-2) are Sprint’s responses to Staff’s First and Second Data
165 Requests in this proceeding, which include among other things responses to commission
166 staff questions regarding the elements of ARSD 20:10:32:03.

167

168 **Q. What geographic area served by Swiftel does Sprint propose to serve?**

169 **A.** ARSD 20:10:32:15 provides in relevant part that “[t]hese service requirements shall be
170 imposed on the alternative local service provider throughout a geographic area *as*
171 *determined by the commission*, unless a waiver is granted pursuant to. . . .” (emphasis
172 added.) As explained below, Sprint is not seeking ETC status and therefore will not
173 collect any federal Universal Service Fund support. Therefore, there is no reason why
174 Sprint should be required to serve throughout Swiftel’s entire service territory. The rule
175 clearly states that the Commission can determine the geographic area; then the alternative
176 service provider is required to serve throughout that Commission-determined area. Sprint
177 is requesting the Commission to determine that Sprint’s geographic area is defined by
178 and consists of the exact same territory as MCC’s footprint. As explained above, under
179 the Sprint/MCC business model MCC has the last-mile facilities to customer premises.
180 Sprint does not have any last-mile facilities; rather, Sprint provides the switching and

181 underlying network functionality. Because it is a jointly-provided service with each
182 carrier providing different pieces of the complete service, Sprint and MCC serve the same
183 area.

184

185 **Q. Is Sprint requesting a waiver from service throughout the “geographic area”**
186 **described in ARSD 20:10:32:15?**

187 A. As explained above, Sprint does not believe a waiver is required because ARSD
188 20:10:32:15 allows the Commission to determine the geographic area. The Commission
189 can and should determine that Sprint’s geographic area consists of the exact same
190 territory as MCC’s footprint, in which case Sprint will, by definition, be serving
191 throughout the entire “geographic area” determined by the Commission, and there is no
192 need for a waiver. Sprint requests a waiver only if the Commission believes that such a
193 waiver is necessary due to the fact that MCC’s footprint (and thus Sprint’s requested
194 “geographic area”) does not exactly correspond to Swiftel’s territory, in which case the
195 waiver is requested for any and all Swiftel territory that is not covered by MCC’s
196 footprint.

197

198 **Q. Is Sprint requesting ETC status for the purpose of seeking to collect Universal**
199 **Service Fund support?**

200 A. No. Sprint is not seeking ETC status and therefore will not collect or seek to collect any
201 Universal Service Fund support as a result of this proceeding. Sprint is required to
202 demonstrate satisfaction of the federal ETC criteria as a pre-condition under ARSD
203 20:10:32:15 to gain approval to serve consumers in Swiftel territory. Sprint’s sole

204 purpose in demonstrating the federal ETC criteria is to gain approval in SwifTel territory,
205 as the Commission required as part of the amended certificate of authority it issued to
206 Sprint in Docket no. TC96-156, not to actually gain ETC status or collect any Universal
207 Service Fund support.

208

209 **Q. What are the ETC requirements as outlined in 47 C.F.R. §54.101?**

210 A. The ETC requirements include; (1) voice grade access to the public switched network
211 (“PSTN”), (2) local usage, (3) dual tone multi-frequency signaling (“DTMF”) or its
212 functional equivalent, (4) Single-party service or its functional equivalent, (5) access to
213 emergency services, (6) access to operator services, (7) access to interexchange service,
214 (8) access to directory assistance and (9) toll limitation for qualifying low-income
215 consumers.

216

217 **Q. Please describe requirement 1, voice grade access to the PSTN.**

218 A. Voice grade access to the public switched network is defined as a functionality that
219 enables a user of telecommunications services to transmit voice communications,
220 including signaling the network that the caller wishes to place a call, and to receive voice
221 communications, including receiving a signal indicating there is an incoming call. For the
222 purposes of this part, bandwidth for voice grade access should be, at a minimum, 300 to
223 3,000 Hertz.³

224

225

³ 47 C.F.R. §54.101.

226 **Q. Does Sprint provide voice grade access to the PSTN?**

227 A. Yes. Sprint will provide the underlying switching and interconnection to the PSTN for
228 the Sprint/MCC jointly provided service.

229

230 **Q. Please describe requirement 2, local usage.**

231 A. Local usage means an amount of minutes of use of exchange service, prescribed by the
232 Commission, provided free of charge to end users.⁴

233

234 **Q. Does Sprint meet the local usage requirement?**

235 A. Yes. MCC as the retail provider of voice service has proposed to charge a flat monthly
236 service fee for local service with no limit to the number of calls made or received or
237 minutes of usage. Under the business model described above, Sprint does not bill or
238 charge the end-user.

239

240 **Q. Please describe DTMF signaling.**

241 A. DTMF is a method of signaling that facilitates the transportation of signaling through the
242 network, shortening call set-up time. This is, in effect, touch-tone dialing.⁵

243

244 **Q. Does Sprint provide DTMF signaling or its functional equivalent?**

245 A. Yes. With respect to the jointly provided service, MCC will provide DTMF signaling for
246 all customers. Sprint supports the DTMF signaling throughout its network.

⁴ *Id.*

⁵ *Id.*

247 **Q. Please describe single-party service.**

248 **A.** Single-party service is a service that permits users to have exclusive use of a wireline
249 subscriber loop or access line for each call placed.⁶

250

251 **Q. Does Sprint provide single-party service?**

252 **A.** Yes. With respect to the jointly provided service, Sprint and MCC will provide only
253 single-party service.

254

255 **Q. Please describe Access to emergency services.**

256 **A.** Access to emergency services includes access to services, such as 911 and enhanced 911,
257 provided by local governments or other public safety organizations. 911 is defined as a
258 service that permits a telecommunications user, by dialing the three-digit code "911," to
259 call emergency services through a Public Service Access Point (PSAP) operated by the
260 local government. "Enhanced 911" is defined as 911 service that includes the ability to
261 provide automatic numbering information (ANI), which enables the PSAP to call back if
262 the call is disconnected, and automatic location information (ALI), which permits
263 emergency service providers to identify the geographic location of the calling party.
264 "Access to emergency services" includes access to 911 and enhanced 911 services to the
265 extent the local government in an eligible carrier's service area has implemented 911 or
266 enhanced 911 systems.⁷

267

⁶ *Id.*

⁷ *Id.*

268 **Q. Does Sprint provide access to emergency services?**

269 A. Yes. With respect to the jointly provided service, Sprint will provide 911 circuit
270 provisioning and connectivity to all appropriate Public Safety Answering Points
271 (“PSAP”), 911 database administration and 911 contract negotiation, if necessary.

272

273 **Q. Please describe access to operator services.**

274 A. Access to operator services is defined as access to any automatic or live assistance to a
275 consumer to arrange for billing or completion, or both, of a telephone call.⁸

276

277 **Q. Does Sprint provide access to operator services?**

278 A. Yes. With respect to the jointly provided service, Sprint will provide access to operator
279 services, including 0- and 0+ services.

280

281 **Q. Please describe access to interexchange service.**

282 A. Access to interexchange service is defined as the use of the loop, as well as that portion
283 of the switch that is paid for by the end user, necessary to access an interexchange
284 carrier's network.⁹

285

286 **Q. Does Sprint provide access to interexchange service?**

287 A. Yes. With respect to the jointly provided service, Sprint will provide access to
288 interexchange service.

⁸ *Id.*

⁹ *Id.*

289 **Q. Please describe access to directory assistance.**

290 A. Access to directory assistance is defined as access to a service that includes, but is not
291 limited to, making available to customers, upon request, information contained in
292 directory listings.¹⁰

293

294 **Q. Does Sprint provide access to directory service?**

295 A. Yes. With respect to the jointly provided service, Sprint will provide access to directory
296 assistance.

297

298 **Q. Please describe toll limitation for qualifying low-income consumers.**

299 A. Toll limitation denotes either toll blocking or toll control. Toll blocking is a service
300 provided by carriers that lets consumers elect not to allow the completion of outgoing toll
301 calls from their telecommunications channel. Toll control is a service provided by
302 carriers that allows consumers to specify a certain amount of toll usage that may be
303 incurred on their telecommunications channel per month or per billing cycle. Toll
304 limitation denotes either toll blocking or toll control for eligible telecommunications
305 carriers that are incapable of providing both services.¹¹

306

307 **Q. Does Sprint provide toll limitation?**

308 A. With respect to the jointly provided service, MCC's voice service package includes

309

¹⁰ *Id.*

¹¹ *Id.*

310 unlimited local and domestic long distance service calling. The service does not
311 presently offer a “local only” product.

312

313 **Q. What are the ETC requirements as outlined in 47 C.F.R. §54.201?**

314 A. These requirements include (i) offering the services utilizing the carrier’s own facilities
315 or a combination of their own facilities and resale of other carriers’ services; (ii)
316 advertising the availability of local exchange services and the charges therefore in media
317 of general distribution throughout the exchange areas served; and (iii) in the case of rural
318 areas, a determination by the commission that the designation is in the public interest.

319

320 **Q. With respect to the jointly provided service, will Sprint and MCC satisfy the**
321 **requirements of 47 C.F.R. §54.201?**

322 A. Yes. With respect to the jointly provided service, Sprint and MCC offer these services
323 utilizing their own facilities or a combination of their own facilities and resale of other
324 carriers’ services; and MCC will advertise the availability of its local exchange services
325 and the charges therefore in media of general distribution throughout the exchange areas
326 served.

327 In addition, granting Sprint’s petition is in the public interest. The service will bring
328 competitive choice through a facilities-based business model chosen by the most likely
329 and most qualified competitor to ILEC service. This will bring benefits to the public in
330 several ways. First, companies in a competitive industry must take steps to attract
331 customers. One main way to do this is to offer lower prices. If competition is
332 sufficiently robust, companies will have to price their services at the economic cost of

333 producing the services. Another strategy used by companies in a competitive industry is
334 to differentiate themselves from their competitors and attract new customers by offering
335 new and innovative services. Third, competitive companies are also quicker to develop
336 and/or deploy new technologies, in order to attract more customers. Thus, the
337 Sprint/MCC offering is in the public interest because it will result in lower, cost-based
338 prices, more new and innovative services, and more investment in new technologies.

339

340 **Q. Please briefly summarize the relief Sprint is requesting from the Commission.**

341 A. Sprint is requesting the Commission's approval to expand the Sprint/MCC jointly
342 provided local exchange service to consumers in Swiftel territory. Sprint and MCC
343 already provide the exact same service in Qwest territory pursuant to certificates of
344 authority previously granted by the Commission to both Sprint and MCC. The same
345 facilities and equipment will be used to provide service in Swiftel territory. The
346 Sprint/cable business model has been repeatedly upheld by numerous federal district
347 courts, as well as the FCC. Accordingly, the Commission should approve Sprint's
348 petition.

349

350 **Q. Does this conclude your testimony?**

351 A. Yes it does.