



South Dakota Telecommunications Association
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Rural roots, global connections

November 7, 2006

RECEIVED

NOV 07 2006

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Ms. Patty Van Gerpen, Executive Director
South Dakota Public Utilities Commission
500 East Capitol Ave.
State Capitol Building
Pierre, SD 57501

RE: Docket TC06-178, Sprint Communications Company, L.P. Petition
for Authority to Provide Local Exchange Service in Certain Rural Service
Areas – Brookings Municipal Utilities d/b/a Swiftel Communications, Inc.

Dear Ms. Van Gerpen:

Enclosed you will find the original and ten (10) copies of a “SDTA Petition to Intervene”
in the above referenced proceeding.

As is evidenced by the Certificate of Service attached to the Petition, service has been
made to those parties identified in the case.

Thank you for your assistance in filing the original and distributing copies of the Petition.

Sincerely,

Richard D. Coit
SDTA Executive Director and General Counsel

RDC/ms

CC: Dianne C. Browning
Ben H. Dickens, Jr.
Mary J. Sisak
Talbot J. Wiczorek

BEFORE THE PUBLIC UTILITIES COMMISSION **RECEIVED**
OF THE STATE OF SOUTH DAKOTA **NOV 07 2006**

IN THE MATTER OF THE APPLICATION)
OF SPRINT COMMUNICATIONS COMPANY)
LP FOR AUTHORITY TO PROVIDE LOCAL) **DOCKET TC06-178**
EXCHANGE SERVICES IN CERTAIN RURAL)
SERVICE AREAS SERVED BY BROOKINGS)
MUNICIPAL UTILITIES d/b/a SWIFTEL
COMMUNICATIONS

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

SDTA Petition to Intervene

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.

2. On or about October 20, 2006, Sprint Communications Company, L.P. (Sprint) filed a "Petition for Authority to Provide Local Exchange Service in Certain Rural Service Areas" (hereinafter referenced as "Petition for Authority") with the Commission seeking authorization to provide local exchange telecommunications services in the Brookings "rate center" within the rural service area of Brookings Municipal Utilities d/b/a Swiftel Communications (hereinafter referenced as "Swiftel").

3. With respect to the authorization requested, it appears that it is not Sprint's intention to provide telecommunications services directly to the public. Instead, Sprint, through a requested interconnection arrangement with Swiftel intends to provide certain wholesale services to MCC Telephony of the Midwest, Inc. ("MCC" hereinafter referenced as "Mediacom"). The Petition for Authority indicates that Mediacom, rather than Sprint, would be the actual carrier engaged in providing competitive local exchange services directly to retail, end user customers.

4. Sprint alleges that it is able to satisfy the rural service area protection/safeguard that is provided for under 47 U.S.C. § 253(f). Under that Section, States may “require a telecommunications carrier that seeks to provide telephone exchange service or exchange access in a service area served by a rural telephone company to meet the requirements in section 214(e)(1) for designation as an eligible telecommunications carrier for that area before being permitted to provide such service.” *Emphasis added.* The South Dakota Legislature has imposed this protection/safeguard as a condition on the certification of competitive local exchange carriers in rural telephone company service areas through the enactment of SDCL § 49-31-73. This Commission has more specifically defined the requirements imposed on competitive carriers pursuant to this statute through the adoption of ARSD § 20:10:32:15.

5. The Sprint filing herein presents a number of issues to this Commission that are of interest to all SDTA member companies. First, because Sprint, itself, does not intend to provide competitive local exchange services to retail, end user customers, but only intends to provide interconnection services on a wholesale basis to another service provider, questions arise as to whether it is even appropriate to certify Sprint as a local exchange carrier within the rural service areas identified in its Petition. Given Sprint’s status as a wholesale provider, a related question also arises as to whether Sprint is entitled to interconnection rights under Sections 251 and 252 of the Federal Communications Act.¹ Second, there are questions presented concerning Sprint’s actual ability to meet the additional service obligations that are imposed on competitive local exchange carriers in rural service areas pursuant to 47 U.S.C. § 253(f), SDCL § 49-31-73 and ARSD § 20:10:32:15. Sprint alleges that it satisfies these additional obligations, yet it has provided no specific information as to how the local exchange services described in its Petition would be extended to all end user customers within the rate center area. In addition, Sprint has in the alternative made a request for a waiver of the additional service obligations set forth in ARSD § 20:10:32:15, yet it has failed to provide any information indicating that the granting of such a waiver would be consistent with the applicable public interest standards found in ARSD § 20:10:32:18.

¹ It should be noted that this issue concerning the right of “wholesale providers” to seek interconnection under 47 U.S.C § 251 of the Federal Act is presently pending before the FCC in WC Docket No. 06-55, *In the Matter of Petition of Time Warner Cable for Declaratory Ruling that Competitive Local Exchange Carriers may Obtain Interconnection Under Section 251 of the Communications Act of 1934, as amended, to Provide Wholesale Telecommunications Services to VOIP Providers*. SDTA participated in the proceeding through the filing of initial and reply comments.

6. Given these particular issues, all of the SDTA member companies are interested in this proceeding and stand to be affected by the Commission's decisions herein. SDTA seeks intervention in this proceeding based on the interest of Swiftel, an SDTA member, and also the interest of other SDTA member companies which operate as incumbent local exchange carriers and are likely to be "bound and affected either favorably or adversely" by the outcome of this proceeding. (See ARSD 20:10:01:15.05).

Dated this 7th day of November 2006.

Respectfully submitted:

SDTA

By: 

Richard D. Coit

Executive Director and General Counsel

CERTIFICATE OF SERVICE

I hereby certify that an original and ten (10) copies of the Petition for Intervention of SDTA in Docket TC06-178 was hand-delivered to the South Dakota PUC on November 7, 2006, directed to the attention of:

Patty Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

A copy was sent by US Postal Service First Class mail to each of the following individuals:

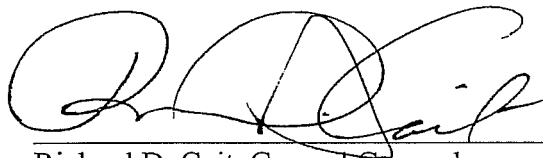
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Dated this 7th day of November, 2006.



Richard D. Coit, General Counsel
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