



South Dakota Telecommunications Association  
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*Rural roots, global connections*

November 7, 2006

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

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NOV 07 2006

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

RE: Docket TC06-180, Application of Sprint Communications  
Company, L.P.

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: Diane C. Browning  
Meredith Moore  
Talbot J. Wiczorek

**BEFORE THE PUBLIC UTILITIES COMMISSION**

**OF THE STATE OF SOUTH DAKOTA**

**IN THE MATTER OF THE APPLICATION )  
OF SPRINT COMMUNICATIONS COMPANY )  
LP FOR AUTHORITY TO PROVIDE LOCAL )  
EXCHANGE SERVICES IN CERTAIN RURAL )  
SERVICE AREAS SERVED BY INTERSTATE )  
TELECOMMUNICATIONS COOPERATIVE, )  
INC. )**

**DOCKET TC06-180**

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**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 October 24, 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 specified "rate centers" within the rural service area of Interstate Telecommunications Cooperative, Inc. (ITC). Specifically, authorization is sought for the following ITC served "rate centers": Castlewood, Elkton, Estelline, Hayti, Lake Norden, and White.

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 ITC 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. Despite the fact that its Petition for Authority is limited to only certain ITC rate center or exchange areas, 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.<sup>1</sup> 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 in each of the identified rate center or exchange areas. 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

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<sup>1</sup> 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.

indicating that the granting of such a waiver would be consistent with the applicable public interest standards found in ARSD § 20:10:32:18.

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 ITC, 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 7<sup>th</sup> 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 TC06-180 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:

Diane C. Browning  
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Talbot J. Wiczorek  
Gunderson Palmer Goodsell & Nelson LLP  
PO Box 8045  
Rapid City, SD 57709

Dated this 7th day of November, 2006.



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