

GEORGE S. MICKELSON  
1941-1993

ALAN F. GLOVER  
RICHARD J. HELSPER  
JODY ODEGAARD SMITH

**GLOVER & HELSPER, P.C.**  
ATTORNEYS AND COUNSELORS AT LAW

415 EIGHTH STREET SOUTH  
BROOKINGS, SOUTH DAKOTA 57006  
TELEPHONE: (605) 692-7775  
FAX: (605) 692-4611

E-MAIL ADDRESSES:  
afg1@brookings.net  
rjh1@brookings.net  
jos1@brookings.net

June 1, 2006

RECEIVED

JUN 02 2006

Patricia Van Gerpen  
Executive Director  
Public Utilities Commission of  
the State of South Dakota  
500 East Capitol Avenue  
Pierre, SD 57501

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

*Elec Rec'd 6/1/06*

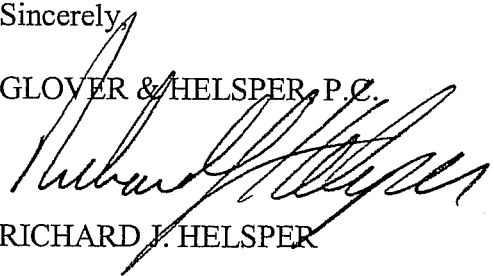
Re: Docket No. TC06-046  
MCC Telephony of the Midwest, Inc., d/b/a Mediacom Petition for a Statewide  
Certificate of Authority

Dear Ms. Van Gerpen:

Enclosed herewith is the original and ten copies of Brookings Municipal Utilities d/b/a  
Swiftel Communications Petition to Intervene in the above-referenced docket. Please  
associate this filing with the above-referenced docket.

Sincerely,

GLOVER & HELSPER, P.C.

  
RICHARD J. HELSPER

Enclosures

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

RECEIVED

JUN 02 2006

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

*Elec. Rec'd 6/1/06*

IN THE MATTER OF THE COMBINED )  
APPLICATION OF MCC TELEPHONY )  
OF THE MIDWEST, INC. D/B/A )  
MEDIACOM FOR A STATEWIDE )  
CERTIFICATE OF AUTHORITY )  
TO PROVIDE INTEREXCHANGE )  
AND LOCAL EXCHANGE SERVICE )

DOCKET NUMBER  
TC06-046

**BROOKINGS MUNICIPAL UTILITIES D/B/A SWIFTEL COMMUNICATIONS  
PETITION TO INTERVENE**

Brookings Municipal Utilities d/b/a Swiftel Communications (Swiftel), hereby petitions to intervene as a party in this matter pursuant to ARSD 20:10:01:15.02. In support of this Petition, Swiftel states as follows:

1. In its Application, MCC Telephony of the Midwest, Inc. d/b/a/ Mediacom (MCC) requests a statewide combined certificate of authority to provide interexchange and local exchange service throughout the state of South Dakota, excluding rural service areas, pursuant to ARSD 20:10:24:02 and 20:10:32:03. MCC states that it “proposes to rely primarily on the existing cable television facilities deployed by its affiliated cable companies and the facilities of its underlying carrier vendors.” MCC Application at 6. MCC also states that it “will interconnect through its vendor, Sprint, who will manage the soft switch and gateways used to exchange traffic with the public switched telephone network (“PSTN”) for call completion.” *Id.*

2. MCC states that it “requests authority to provide service in areas of the state for which certification does not require eligible telecommunications carrier status.” MCC

states, however, that “[a]t a future time, applicant may seek a waiver of the ETC requirement to bring competition to other areas of the state.” *Id.*

3. Swiftel is a local exchange carrier operating in the State of South Dakota. Sprint Communications Company, L.P. (Sprint) has requested interconnection from Swiftel for the purpose of providing local exchange service and interexchange service in connection with the services of the cable company Mediacom Minnesota, LLC, (Mediacom) operating in Swiftel’s service territory. Mediacom is a cable affiliate of MCC. It is anticipated that a request for arbitration in connection with Sprint’s request for interconnection will be filed with this Commission in the near future. Further, it appears that Sprint and Mediacom intend to provide service in Swiftel’s service area in the same manner as described by MCC in its Application. Accordingly, Swiftel believes that MCC’s proposed provision of service in Swiftel’s service area is imminent, which will require MCC to seek a certificate of authority in Swiftel’s service area.

4. Pursuant to the Commission’s rules, applicants for a certificate of authority must provide certain information and must demonstrate that they possess sufficient technical, financial and managerial capabilities to provide the requested services. Specifically, applicants requesting a certificate of authority to provide local exchange service must meet the requirements in ARSD 20:10:32:03. Except for the information requested in ARSD 20:10:32:03 (16), all of the information that must be provided is the same for applicants seeking to provide local exchange service in rural and non-rural areas. Swiftel believes that MCC’s Application does not provide all of the information required in ARSD 20:10:32:03 and, therefore, that MCC has not demonstrated the technical, financial and managerial capabilities to provide local exchange service in

South Dakota. Accordingly, Commission action on MCC's current Application, which claims to meet these requirements, will establish precedent affecting Swiftel's ability to challenge this information when presented in a petition to amend MCC's certificate to provide service in Swiftel's service area.

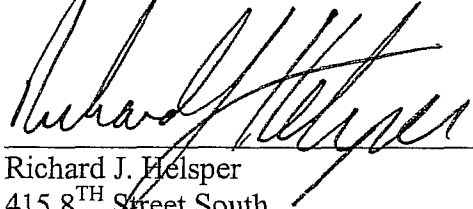
5. MCC's Application also contains a reservation of rights in which MCC seeks to preserve any rights regarding the authority of the Commission to regulate MCC's IP-based services. To the extent the Commission issues any decisions or makes any findings concerning its jurisdiction over MCC and its provision of service, such decision also will apply to MCC's provision of service in Swiftel's service area and, therefore, will affect Swiftel.

6. Accordingly, the Commission should grant Swiftel's petition to intervene pursuant to 20:10:01:15.05 because Swiftel will be bound by the outcome of the proceeding and affected with respect to MCC's provision of service in Swiftel's service area.

WHEREFORE, Swiftel requests that the Commission grant its Petition and allow it to intervene and be granted party status in this proceeding.

Dated this 1st day of June, 2006.

GLOVER & HELSPER, P.C.



Richard J. Helsper  
415 8<sup>TH</sup> Street South  
Brookings, SD 57006  
(605) 692-7775

Benjamin H. Dickens, Jr.  
Mary J. Sisak  
Blooston, Mordkofsky, Dickens, Duffy  
& Prendergast, LLP  
2120 L Street, NW Suite 300  
Washington, DC 30027  
Telephone (202) 659-0830  
Fax (202) 828-5569

**CERTIFICATE OF SERVICE**

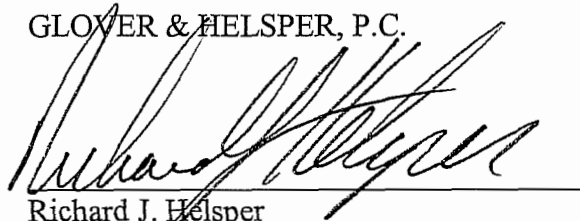
I hereby certify that a true and correct copy of the foregoing Brookings Municipal Utilities d/b/a/ Swiftel Communications Petition to Intervene was served via first class US mail, postage prepaid, on the 1<sup>st</sup> of June, 2006, to the following:

David A. Gerdes  
May, Adams, Gerdes & Thompson LLP  
503 South Pierre Street  
P.O. box 160  
Pierre, South Dakota 57501-0160

Calvin Craib  
President  
MCC Telephony of the Midwest, Inc.  
100 Crystal Run Road  
Middletown, NY 10941

Chris Luther  
Vice President, Customer Service  
Mediacom  
100 Crystal Run Road  
Middletown, NY 10941

GLOVER & HELSPER, P.C.



Richard J. Helsper  
415 8<sup>TH</sup> Street South  
Brookings, SD 57006  
(605) 692-7775