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E-FILING

Patricia Van Gerpen
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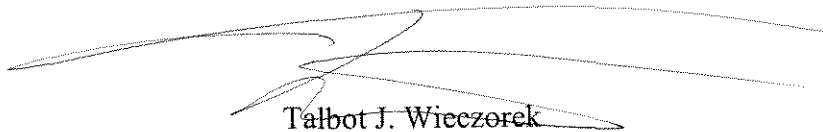
RE: In the matter of the Petition of Brookings/Swiftel for Suspension or Modification
Docket TC 07-007
GPGN File No. 5925.070110

Dear Ms. Van Gerpen:

Attached please find Alltel's Response to Petition filed by Brookings Municipal Utilities d/b/a Swiftel Communications in the above-entitled matter. By copy of same, counsel have been served by email.

If you have any questions, please contact me.

Sincerely,



Talbot J. Wieczorek

TJW:klw

Enclosure

c: Rich Helsper/Mary Sisak/Ben Dickens
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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

In the Matter of the Petition of Brookings Municipal)
Utilities D/B/A Swiftel Communications for suspension)
or modification of local dialing parity, number)
portability and reciprocal compensation obligations.)

Docket No. TC07-007

**ALLTEL'S RESPONSE TO THE SWIFTEL PETITION FOR SUSPENSION OR
MODIFICATION**

COMES NOW Alltel Communications, Inc. ("Alltel") and submits this Response to the Swiftel Petition for Suspension or Modification of Dialing Parity, Number Portability and Reciprocal Compensation Obligations ("Petition"). In addition to the necessity of ultimate denial of the Petition as discussed below, Alltel specifically denies each and every allegation within the Petition unless otherwise admitted herein. Alltel admits that (i) Swiftel has approximately 12,500 subscriber lines; (ii) Alltel is entitled to the benefit of number portability; local dialing parity for locally rated NPA-NXXs and reciprocal compensation for telecommunications traffic; (iii) Swiftel is required under 47 U.S.C. § 251(b) to provide number portability, local dialing parity and reciprocal compensation to wireless carriers for telecommunications traffic exchanged between the parties.

DISCUSSION

The Telecommunications Act of 1996 (the "Act") and its twin goals of fostering competition and advancing universal service fundamentally changed telecommunications regulation. Prior to the Act, the regulatory regime discouraged competition. Following passage of the Act, the Federal and State regulatory bodies are charged with

implementing a new regulatory regime in order to “remove the outdated barriers that protect monopolies from competition and affirmatively promote efficient competition using tools forged by Congress.” *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, First Report and Order*, FCC 96-325 ¶ 1 (1996). (“*First Report and Order*”). Rather than continuing to shield incumbent local exchange carriers (“ILECs”), like Swiftel, from competition the Act requires them to be subject to competition to ultimately lead to greater customer benefits. In acknowledging the public interest in a competitive marketplace the FCC has stated:

Competition in local exchange markets is desirable, not only because of the social and economic benefits competition will bring to consumers of local services, but also because competition will eventually eliminate the ability of an incumbent local exchange carrier to use its control to bottleneck local facilities to impede free market competition.

First Report and Order at ¶ 4.

The tools Congress has forged in order to promote true competition are included within Section 251 of the Act, three of which Swiftel now seeks to avoid through its Petition: number portability under 251(b)(2); dialing parity under 251(b)(3); and its reciprocal compensation obligation under 251(b)(5).¹ Specifically, Swiftel requests modification of its dialing parity obligation such that (1) it not be required to provide local dialing to its subscribers; and (2) it not be required to transport its subscribers traffic, bound for competitors, beyond the local wireline calling area. Additionally, Swiftel requests modification of its reciprocal compensation obligation such that it not be

¹ Alltel disputes and objects to all relief sought by Swiftel within its Petition but for purposes of this response will only address those claims for relief that are applicable to Swiftel’s obligations to CMRS providers and not obligations owed to wireline CLEC providers.

required to pay any reciprocal compensation to competitors for intraMTA traffic it treats as a toll traffic.

Swiftel's request for modification is an attempt to substantially expand and exploit the limited relief available under Section 251(f)(2), which allows LECs with fewer than two percent of the nation's subscriber lines to petition the state commission for suspension or modification of requirements imposed on incumbent local exchange carriers under Sections 251(b) and (c).² In considering such petitions it is clear that "Congress intended the exemption, suspension or modification of the section 251 requirements to be the exception rather than the rule, and to apply only to the extent, and for the period of time, that policy considerations justify such exemption, suspension or modification." *First Report and Order* at ¶ 1262. Given the Act's goal of fostering competition among providers, "Congress did not intend to insulate small or rural LECs from competition and thereby prevent subscribers in those communities from obtaining the benefits of a competitive local exchange service." *Id.*

The bottom line remains, given the pro-competitive focus of the Act, Swiftel must prove the suspension/modification request is the appropriate relief from otherwise applicable, sound consumer-focused competitive requirements required of all communications providers. In this case, Swiftel's request fails for several reasons: (1) its specific requests for modification of its dialing parity obligation goes beyond the scope of relief afforded under Section 251(f)(2); (2) its request for modification of its dialing parity obligation would violate its obligations as an eligible telecommunications carrier; (3) Swiftel has failed to prove a significant or undue economic burden beyond self-

² Alltel intends to timely file an appropriate Motion for Dismissal of those claims for relief that go beyond the scope of relief afforded under 47 U.S.C. §251(f)(2).

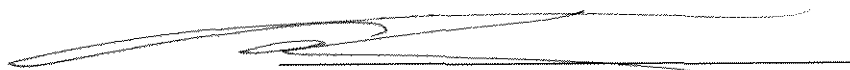
interested protection of its monopoly power and market control; and (4) the Swiftel request is inconsistent with the public interest in a competitive local exchange market. Accordingly, Swiftel's Petition must be denied.

CONCLUSION

For all the above-stated reasons, Alltel respectfully requests ultimate denial of the Swiftel Petition.

Dated this 12 day of April, 2007.

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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION OF
BROOKINGS MUNICIPAL UTILITIES D/B/A
SWIFTEL COMMUNICATIONS FOR
SUSPENSION OR MODIFICATION OF
LOCAL DIALING PARITY RECIPROCAL
COMPENSATION OBLIGATIONS

DOCKET No. TC07-007

CERTIFICATE OF SERVICE

The undersigned certifies that on this 17 day of April, 2007, a copy of Alltel's Response to Petition was served electronically to:

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