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June 6, 2007

E-FILING
Patricia Van Gerpen
South Dakota Public Utilities Commission
Capitol Building, 1st Floor
500 East Capitol Avenue
Pierre SD 57501-5070

RE: In the Matter of the Petition of Brookings/Swiftel for Suspension or Modification – Docket TC07-007 GPGN File No. 8509.070220 (SPRINT)

Dear Ms. Van Gerpen:

Attached please find Sprint's initial Prefiled Testimony of Randy Farrar and James Burt, confidential (marked) and nonconfidential, in the above-entitled matter. By copy of same, counsel have been served by e-mail.

Please note some of the prefiled testimony has been marked confidential due to the fact that information contained in the testimony or exhibits is taken from documents or testimony previously provided and marked confidential by Swiftel.

If you have any questions, please contact me.

Sincerely,

/s/ Talbot J. Wieczorek

Talbot J. Wieczorek

TJW:klw
Enclosures
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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 Dialing Parity, Number Portability and Reciprocal Compensation Obligations	)))))	DOCKET TC07-007

Direct Testimony of Randy G. Farrar

On Behalf of Sprint Communications Company, L.P.

PUBLIC

June 6, 2007

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DIRECT TESTIMONY

I. INTRODUCTION

Q. Please state your name, occupation, and business address.

A. My name is Randy G. Farrar. My title is Senior Manager – Interconnection Support for Sprint United Management, the management subsidiary of Sprint Nextel Corporation. My business address is 6450 Sprint Parkway, Overland Park, Kansas 66251.

Q. What is your educational background?

A. I received a Bachelor of Arts degree from The Ohio State University, Columbus, Ohio, with a major in history. Simultaneously, I completed a program for a major in economics. Subsequently, I received a Master of Business Administration degree, with an emphasis on market research, also from The Ohio State University.

Q. Please summarize your work experience.

A. I have worked for a subsidiary of Sprint Nextel (or of its Sprint predecessor in interest) since 1983 in the following capacities:

- 2005 to present: Senior Manager – Interconnection Support. I provide interconnection support, where I provide financial, economic, and

policy analysis concerning interconnection and reciprocal compensation issues.

- 1997 to 2005: Senior Manager – Network Costs. I was an instructor for numerous training sessions designed to support corporate policy on pricing and costing theory, and to educate and support the use of various costing models. I was responsible for the development and support of switching, transport, and financial cost models concerning reciprocal compensation, unbundled network elements, and wholesale discounts.
- 1992 to 1997: Manager - Network Costing and Pricing. I performed financial analyses for various business cases, analyzing the profitability of entering new markets and expanding existing markets, including Custom Calling, Centrex, CLASS and Advanced Intelligent Network features, CPE products, Public Telephone and COCOT, and intraLATA toll. Within this time frame, I was a member of the USTA's Economic Analysis Training Work Group (1994 to 1995).
- 1987 to 1992: Manager - Local Exchange Costing. Within this time frame I was a member of the United States Telephone Association's (USTA) New Services and Technologies Issues Subcommittee (1989 to 1992).
- 1986 to 1987: Manager - Local Exchange Pricing. I investigated alternate forms of pricing and rate design, including usage sensitive

rates, extended area service alternatives, intraLATA toll pricing, and lifeline rates.

- 1983 to 1986: Manager - Rate of Return, which included presentation of written and/or oral testimony before state public utilities commissions in Iowa, Nebraska, South Carolina, and Oregon.

I was employed by the Public Utilities Commission of Ohio from 1978 to 1983. My positions were Financial Analyst (1978 - 1980) and Senior Financial Analyst (1980-1983). My duties included the preparation of Staff Reports of Investigation concerning rate of return and cost of capital. I also designed rate structures, evaluated construction works in progress, measured productivity, evaluated treatment of canceled plant, and performed financial analyses for electric, gas, telephone, and water utilities. I presented written and oral testimony on behalf of the Commission Staff in over twenty rate cases.

Q. What are your responsibilities in your current position?

A. I provide financial, economic and policy analysis concerning interconnection and reciprocal compensation issues. Such analysis is provided in the context of supporting negotiations between Sprint Nextel entities to obtain interconnection agreements with other telecommunications carriers and, where necessary, provide expert witness testimony. In the performance of my responsibilities, I must maintain a working understanding of the

interconnection and reciprocal compensation provisions of the Communications Act of 1934 as amended by the Telecommunications Act of 1996 ("the Act" or "the 1996 Act") and the resulting rules and regulations of the Federal Communications Commission ("FCC").

Q. Have you provided testimony before other regulatory agencies?

A. Yes. In addition to my previously referenced testifying experience, since 1995 I have presented written or oral testimony before eighteen state regulatory agencies (Illinois, Pennsylvania, New Jersey, Florida, North Carolina, Nevada, Texas, Georgia, Arizona, New York, Oklahoma, Missouri, Virginia, Iowa, Kentucky, Ohio, South Dakota, and Tennessee) and the Federal Communications Commission on the avoided costs of resold services, the cost of unbundled network elements, reciprocal compensation, access reform, universal service, and local competition issues.

II. PURPOSE AND SCOPE OF TESTIMONY

Q. What is the scope and purpose of your Testimony?

A. I am testifying on behalf of Sprint Communications L.P. ("Sprint"). I will provide input to the Public Utilities Commission of South Dakota concerning the request of Brookings Municipal Utilities d/b/a/Swiftel ("Swiftel") for a 251(f)(2) suspension or modification of their obligation to provide dialing parity, number portability, and reciprocal compensation. Specifically, I will

testify that meeting these obligations cannot be considered an "undue economic burden" to Swiftel.

I will also comment on the May 23, 2007 Direct Testimonies of Peter C. Rasmusson and Jo Shotwell testifying on behalf of Swiftel.

III. ISSUES

A. The Telecommunications Act of 1996

Q. Please discuss the Act and how it relates to this proceeding.

A. A primary purpose of the Act is to promote competition, including competition between traditional ILECs (including the RLECs) and competitive local exchange carriers ("CLEC"), as well as intermodal competition between ILECs and wireless providers.

In order to assure a level playing field between ILECs and other carriers, §§ 251(a) and (b) of the Act establish the following obligations (among others):

> SEC. 251 INTERCONNECTION
> (a) GENERAL DUTY OF TELECOMMUNICATIONS CARRIERS. – Each telecommunications carrier has the duty –
> (1): to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers;
> (b) Obligations of All Local Exchange Carriers. – Each local exchange carrier has the following duties:
> (2) NUMBER PORTABILITY. – The duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

> (3) DIALING PARITY. – The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.
> (5) RECIPROCAL COMPENSATION. – The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.

As indicated by the Eighth Circuit Court of Appeals, the Act should be interpreted in a manner which promotes competition. Specifically, the Court stated:

> First, all else being equal, if a provision of the Act is vague we are inclined to interpret the provision in a manner which promotes competition. It is undisputed that Congress passed the Act with the intention of eliminating monopolies and fostering competition.[1]

Q. How do § 251(a)(1) (Interconnection) and § 251(b)(5) (Reciprocal Compensation) of the Act work together to allow two carriers to mutually exchange traffic and compensate each other?

A. § 251(a)(1) provides the duty for each carrier to interconnect its network to the other carrier's network. The FCC has explicitly defined interconnection to be for the "mutual exchange of traffic."[2] § 251(b)(5) provides the obligation for the originating carrier to compensate the terminating carrier for the latter's network cost (i.e. reciprocal compensation).

[1] *WWC License, L.L.C. v. Nebraska Public Service Commission, et. al.,* 459 F.3d 880 at page 891 (8th Cir. 2006). [Eighth Circuit]
[2] 47 C.F.R. § 51.5, Interconnection.

The FCC Rules provide specific definitions of Reciprocal Compensation and Interconnection.

Q. Please define the term Interconnection.

A. 47 C.F.R. § 51.5 defines Interconnection as follows:

> *Interconnection* is the linking of two networks **for the mutual exchange of traffic**. This term does not include the transport and termination of traffic. (Emphasis added.)

Thus, the FCC's definition of Interconnection explicitly includes the "mutual exchange of traffic." Interconnection excludes the compensation for transport and termination, i.e. the two components of Reciprocal Compensation.

Q. Please define the term Reciprocal Compensation.

A. Under § 251(b)(5) of the Act, CMRS providers and ILECs must "establish reciprocal compensation arrangements for the transport and termination of telecommunications."

47 C.F.R. § 51.701(e) defines Reciprocal Compensation as the compensation for the transport and termination of traffic. Specifically,

> (e) *Reciprocal compensation*. For purposes of this subpart, a reciprocal compensation arrangement between two carriers is one in which each of the two carriers receives compensation from the other carrier for the transport and termination on each carrier's network facilities of telecommunications traffic that originates on the network facilities of the other carrier.

Q. Please define the terms Transport and Termination as they relate to reciprocal compensation.

A. 47 C.F.R. § 51.701(c) defines Transport as tandem switching and transmission from the tandem switch to the end office switch. Specifically,

> (c) *Transport.* For purposes of this subpart, transport is the transmission and any necessary tandem switching of telecommunications traffic subject to section 251(b)(5) of the Act from the interconnection point between the two carriers to the terminating carrier's end office switch that directly serves the called party, or equivalent facility provided by a carrier other than an incumbent LEC.

47 C.F.R. § 51.701(d) defines Termination as end office switching. Specifically,

> (d) *Termination*. For purposes of this subpart, termination is the switching of telecommunications traffic at the terminating carrier's end office switch, or equivalent facility, and delivery of such traffic to the called party's premises.

Thus, Reciprocal Compensation consists of mutual compensation for the following functions:

1. Transport, which in turn consists of
    a. Tandem Switching, and
    b. Transport from the tandem switch to the end office switch, and
2. Termination, which in turn consists of
    a. End Office Switching, and
    b. Transport beyond the end office (to a remote switch).

Q. How is the cost of interconnection to be compensated for between the two interconnecting carriers?

A. Consistent with 47 C.F.R. § 51. 709(b), the cost of the interconnection facility should be shared between the two interconnecting carriers based on proportionate use of the facility. Specifically, 47 C.F.R. § 51.709(b) states,

> The rate of a carrier providing transmission facilities dedicated to the transmission of traffic between two carriers' networks shall recover only the costs of the proportion of that trunk capacity used by the interconnecting carrier to send traffic that will terminate on the providing carrier's network. Such proportions may be measured during peak periods.

Q. May Sprint and Swiftel choose to interconnect with each other either directly or indirectly?

A. Yes. Under § 251(a)(1) of the Act, any carrier may choose to interconnect either directly or indirectly with any other carrier. Specifically, § 251(a)(1) states,

> Each telecommunications carrier has the duty to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.

Q. What is indirect interconnection?

A. According to the FCC, "Carriers are said to be indirectly interconnected to the extent they use transit services to exchange traffic."[3] Thus, Indirect

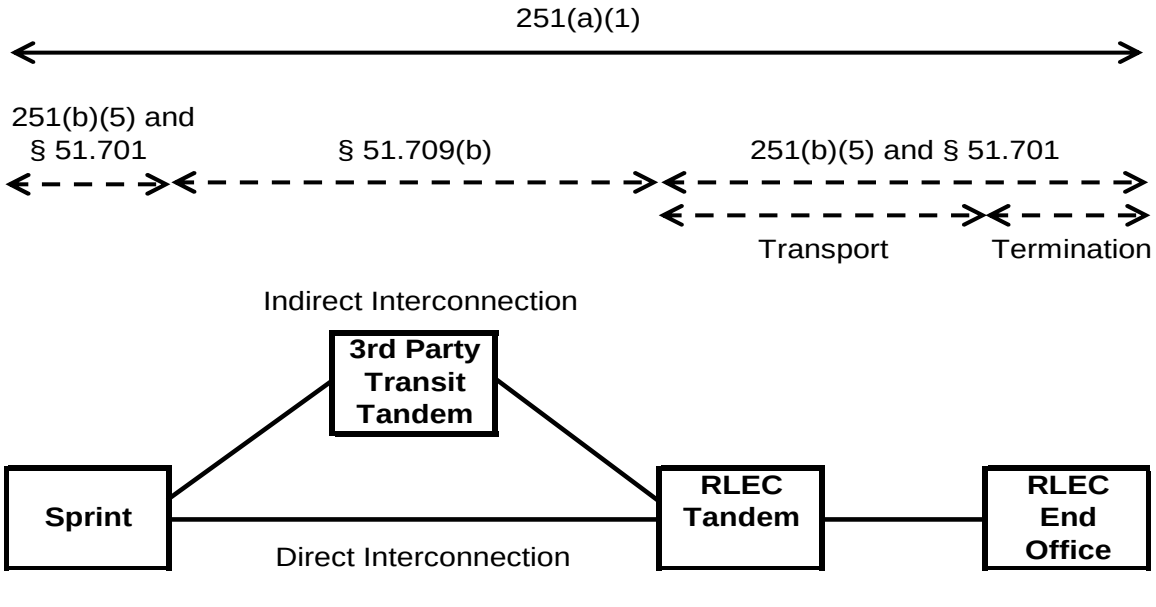
[3] *In the Matter of the Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, et. al., FCC, CC Docket No. 00-218, et. al., Released July 17, 2002, paragraph 218. [*FCC VA Arbitration Order*.]

Interconnection is the use of a third-party transit provider to link the two carriers.

Q. How do Interconnect and Reciprocal Compensation work together to allow two telecommunications carriers to exchange traffic and compensate one another?

A. As discussed above, first, the FCC has defined Interconnection to include the "mutual exchange of traffic." Second, the FCC has defined Reciprocal Compensation as the compensation for Transport and Termination. Third, the FCC has determined that the cost of the interconnection facility should be shared based on proportionate use. The following diagram illustrates the relationships between the various terms.

Diagram 1
Mutual Exchange of Traffic Between Two Carriers



Note that this Diagram illustrates the Direct Interconnection facility as passing directly between the Sprint's network and the RLEC's network. In reality, it is unlikely that there would be fiber optic cables running directly between Sprint's network and the RLEC's network. The physical path may, in fact, pass through the actual building housing the Third Party Transit Tandem. However, this Direct Interconnection facility would be dedicated to traffic carried between Sprint and the RLEC, and the traffic on this Direct Interconnection facility would not "touch" the Third Party Transit Provider's network and would not be switched by the Third Party Transit Tandem. Also, in this case, the RLEC is Swiftel, which does not have its own tandem switch. Thus, there would be no RLEC transport, i.e. tandem switching and transport to the end office.

Q. Please summarize each carrier's responsibility under §§ 251(a)(1) and (b)(5) of the Act

A. Sprint has a duty to deliver its originating traffic to Swiftel, and Swiftel has a duty to deliver its originating traffic to Sprint. How Sprint chooses to route its originating traffic is Sprint's responsibility, and how Swiftel chooses to route its originating traffic is Swiftel's responsibility. Sprint has no authority to dictate to Swiftel how to route Swiftel's traffic, and Swiftel has no authority to dictate to Sprint how to route Sprint's traffic.

Sprint intends to establish a direct interconnection facility to Swiftel's network. Sprint believes it is most efficient for both carriers to share this as a two-way facility and to share the cost of that two-way facility based on the proportionate usage of that facility, consistent with 47 C.F.R. § 51.709(b). However, Swiftel is under no obligation to do so. Swiftel may choose to deliver its originating traffic indirectly through a third-party transit provider such as SDN (South Dakota Network), or it may choose to provision one-way facilities. If either is the case, Sprint would establish one-way direct facilities to deliver its originating traffic to Swiftel.

Q. You stated that Swiftel is financially responsible for the delivery of its originating traffic to Sprint. Have any regulatory agencies concluded that the originating carrier is financially responsible for the delivery of its originating traffic to the terminating carrier?

A. Yes. Both the FCC and many state regulatory agencies have concluded that it is the financial responsibility of the originating carrier to deliver its originating traffic to the terminating carrier's network. The FCC's position that the "Calling Party's Network Pays" has been well established. In the Local Competition Order, the FCC stated,

> We also reject CompTel's argument that reading section 251(c)(2) to refer only to the physical linking of networks implies that incumbent

LECs would not have a duty to route and terminate traffic. That duty applies to all LECs and is clearly expressed in section 251(b)(5).[4]

Within the FCC Rules, 47 C.F.R. § 51.703(b) states,

> A LEC may not assess charges on any other telecommunications carrier for telecommunications traffic that originates on its network.

In addition, 47 C.F.R. § 51.709(b) states,

> The rate of a carrier providing transmission facilities dedicated to the transmission of traffic between two carriers' networks shall recover only the costs of the proportion of that trunk capacity used by the interconnecting carrier to send traffic that will terminate on the providing carrier's network. Such proportions may be measured during peak periods.

The FCC's General Counsel has stated, referring to two appellate court decisions,

> Section 51.703(b) of the Commission's rules states that a LEC may not assess charges on any other telecommunications carrier, including a CMRS provider, for telecommunications traffic that originates on the LEC's network. *See* 47 C.F.R. § 51.703(b). The Commission has construed this provision to mean that an incumbent LEC must bear the cost of delivering traffic (including the facilities over which the traffic is carried) that it originates to the point of interconnection ("POI") selected by a competing carrier. **At least two appellate courts have held that this rule applies in cases where an incumbent LEC delivers calls to a POI that is located outside of its customer's local calling area**.[5] [Emphasis added.]

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[4] *Local Competition Order*, paragraph 176.

[5] *Central Texas Telephone Cooperative Inc., et. al. v. Federal Communications Commission*, Brief of Respondents, Case No. 03-1405, p. 35 (D.C. Cir. 2004) (citing, *Southwestern Bell Tel. Co. v. Public Utilities Commission of Texas*, 348 F.3d 482, 486-87 (5th Cir. 2003); *MCImetro Access Transmission Services, Inc. v. BellSouth Telecommunications, Inc.*, 352 F.3d 872, 878-79 (4th Cir. 2003)).

Q. Has the FCC decided that the originating carrier is financially responsible for delivering its traffic?

A. Yes. In its Verizon Arbitration Order, The FCC stated that the ILEC was financially responsible for delivering its traffic to the competitive LEC's POI that may be located anywhere within the LATA where the ILEC is located. Specifically, the FCC stated,

> **Under the Commission's rules, competitive LECs may request interconnection at any technically feasible point. This includes the right to request a single point of interconnection in a LATA**. The Commission's rules implementing the reciprocal compensation provisions in section 252(d)(2)(A) prevent any LEC from assessing charges on another telecommunications carrier for telecommunications traffic subject to reciprocal compensation that originates on the LEC's network. Furthermore, under these rules, **to the extent an incumbent LEC delivers to the point of interconnection its own originating traffic that is subject to reciprocal compensation, the incumbent LEC is required to bear the financial responsibility for that traffic**.[6] [Emphasis added.]

Q. Have other state commissions decided that the originating carrier is responsible for delivering its traffic outside of its serving territory?

A. Yes. As detailed on pages 12 – 14 in my Direct Testimony in the Arbitration Docket No. TC06-176,[7] at least nine state commissions have recently concluded that the originating carrier is responsible for delivering its traffic outside of its service territory. These states are Florida,[8] Iowa,[9] Illinois,[10]

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[6] *FCC VA Arbitration Order,* paragraph 52.

[7] *In the Matter of the Petition of Sprint Communications Company L.P. for Arbitration Pursuant to the Telecommunications Act of 1996 to Resolve Issues Relating to an Interconnection Agreement with Brookings Municipal Utilities d/b/a/ Swiftel Communications*; Public Utilities Commission of South Dakota Docket No. TC06-176. [Arbitration Docket]

[8] *Joint petition by TDS Telecom d/b/a/ TDS Telecom/Quincy Telephone, et. al. objecting to and requesting suspension and cancellation of proposed transit traffic service tariff filed by BellSouth Telecommunications, Inc.*, Order on BellSouth Telecommunications, Inc.'s Transit Traffic Service

Tennessee,[11] Pennsylvania,[12] Georgia,[13] Indiana,[14] Missouri,[15] and California.[16]

Tariff, Florida Public Service Commission, Order No. PSC-06-0776-FOF-TP, Docket Nos. 05-0119-TP and 05-0125-TP, issued September 18, 2006, p. 22. [*Florida Decision*.]

[9] *Arbitration of Sprint Communications Company L.P., Petitioning Party, vs. Ace Communications Group, et. al., Responding Parties*, Arbitration Order, Iowa Utilities Board, Docket Nos. ARB-05-2, et. al., issued March 24, 2006.

[10] *Sprint Communications L.P. d/b/a/ Sprint Communications Company L.P. Petition for Consolidated Arbitration with Certain Illinois Incumbent Local Exchange Carriers pursuant to Section 252 of the Telecommunications Act of 1996*, Arbitration Decision, Illinois Commerce Commission, Docket No. 05-0402, Dated November 8, 2005, page 28.

[11] *Petition for Arbitration of Cellco Partnership d/b/a/Verizon Wireless, et. al.*, Order of Arbitration Award, Tennessee Regulatory Authority, Docket No. 03-00585, January 12, 2006, page 30.

[12] *Petition of Cellco Partnership d/b/a Verizon Wireless For Arbitration Pursuant to Section 252 of the Telecommunications Act of 1996 to Establish an Interconnection Agreement With ALLTEL Pennsylvania, Inc.*, Opinion and Order, Pennsylvania Public Utility Commission, Docket No. A-310489F7004, January 13, 2005, page 27. [*Pennsylvania Decision*.]

[13] *BellSouth Communications, Inc.'s Petition for a Declaratory Ruling Regarding Transit Traffic*, Order on Clarification and Reconsideration, Georgia Public Service Commission, Docket No. 16772-U, released May 2, 2005, page 4. (Citing Atlas Telephone Company, et. al. v. Oklahoma Corporation Commission, et. al., 400 F.3d 1256, (10th Cir. 2005)).

[14] *In the Matter of Sprint Communications Company L.P.'s Petition for Arbitration … with Ligonier Telephone Company, Inc*., Final Order, Indiana Utility Regulatory Commission, Cause No. 43052-INT-01, approved September 6, 2006, p. 48. (Citing, (1) *… Sprint Communications Company L.P. Petition of Consolidated Arbitration with Certain Illinois Incumbent Local Exchange Carriers…*, Arbitration Decision, Illinois Commerce Commission, Docket No. 05-0402 (November 8, 2005); (2) *Petition of … Verizon Wireless for Arbitration … With Alltel Pennsylvania, Inc.*, Pennsylvania Public Utility Commission, Opinion and Order, Docket A-310489F7004 (January 13, 2005); (3) *Petition for Arbitration of … Verizon Wireless*, Tennessee Regulatory Authority Case No. 03-00585, at 30 (January 12, 2006); and (4) *Arbitration of Sprint Communications Company L.P. v. Ace Communications Group, et. al.*, Iowa Utilities Board, Docket nos. ARB-05-2, et. al., at 12 (March 24, 2006).

[15] *Southwestern Bell Telephone, L.P., d/b/a SBC Missouri's Petition for Compulsory Arbitration of Unresolved Issues for a Successor Interconnection Agreement to the Missouri 271 Agreement ("M2A")*, Public Service Commission of Missouri, Arbitration Decision, Case No. TO-2005-0336, Issued July 11, 2005, page 40.

[16] *In the Matter of the Petition by Siskyou Telephone Company (U 1017-C) for Arbitration of a Compensation Agreement with Cingular Wireless Pursuant to 47 C.F.R. § 20.11(e), et. al.*, Public Utilities Commission of California, Draft Arbitrator's Report, March 8, 2007, page 22 (Citing *Atlas Telephone* 400 F. 3d 1256, 1265 n, 9; and *Mountain Communications v. FCC*, 355 F. 3d 644 (D.C. Cir. 2004); *MCIMetro v. Bellsouth*, 351 F. 3d 872 (4th Cir. 2003; *Southwestern Bell v. Texas Public Utilities Commission*, 348 F. 3d 482 (5th Cir. 2003)).

B. Definition of "Undue Economic Burden"

Q. What are the criteria for the Commission to grant any individual RLEC a suspension or modification of an obligation imposed upon it by the Act?

A. According to § 251(f)(2) of the Act, as to each petitioning RLEC:

> … The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification –
>
> (A) is necessary -
> (i) to avoid a significant adverse impact on users of telecommunications services generally;
>
> (ii) to avoid imposing a requirement that is unduly economically burdensome; or
>
> (iii) to avoid imposing a requirement that is technically infeasible; and
>
> (B) is consistent with the public interest, convenience, and necessity.

Q. Are there any authoritative guidelines for any of these four criteria?

A. Not that I am aware of. The closest authoritative guideline for considering the grant or denial of a rural exemption or suspension is the Eighth Circuit Court's discussion on what is meant by an "undue economic burden" under 251(f). In *Iowa Utilities Board*, the Court stated:

> 2. Undue Economic Burden
> …
>
> It is the full economic burden on the ILEC of meeting the request that must be assessed by the state commission. … Instead, its

> [Congress'] chosen language looks to the whole of the economic burden the request imposes, not just a discrete part.[17]

Thus, while I am not an attorney, the applicable standard for the economic burden to be considered when an RLEC requests a suspension of an Act requirement, is the economic burden on the entire company to meet the requirement, not just a "discrete part" of the RLEC seeking the suspension.

Also note that the standard is an "undue" economic burden, not merely an economic burden. Any expenditure represents an economic burden to the party who is liable for that expenditure. A $5 lunch is an economic burden to any individual, but is unlikely to be an "undue economic burden" to most people. Likewise, the cost of meeting their §§ 251 (a) and (b) obligations is an economic burden to Swiftel. However, as explained in more detail in my testimony, there is no evidence in this case that meeting such obligations reasonably represents an "undue economic burden" to Swiftel.

Q. Did the Eighth Circuit give any guidance to the degree of scrutiny a request for suspension of modification should be subject to?

A. Yes. The Eighth Circuit stated that a rural suspension or modification should not be "automatic:"

> Nor do we think that consideration of the whole economic burden occasioned by the request will result in state commissions "automatically" continuing the exemption, or

[17] *Iowa Utilities Board, et al. v. Federal Communications Commission*, 219 F.3d 744 at 761 (8th Cir. 2000), cert. granted on other grounds, 531 U.S. 1124, 121 S.Ct. 877 (2001).

> "automatically" granting a petition for suspension or modification. In making their determination of "unduly economically burdensome," the state commissions will undoubtedly take into their judgment the fact that the ILEC will be paid for the cost of meeting the request and may also receive a reasonable profit pursuant to § 252(d).[18]

Given the Eighth Circuit's decision that the intent of the Act is to promote local competition, and the Eighth Circuit's guidance in defining the "full economic burden;" after considering all of the facts, the Commission should not grant a 251(f)(2) petition for suspension or modification in this proceeding.

C. Comments on the Direct Testimony of Jo Shotwell

Q. On page 4, lines 11 – 13 of her Direct Testimony, Ms. Shotwell states that § 251(a)(1) of the Act does not require the exchange of traffic. Is this correct?

A. No. As discussed in Section III.A, above, the FCC explicitly defines interconnection so as to include "the mutual exchange of traffic." Interestingly, on line 13, Ms. Shotwell states that § 251(a) does not "require the exchange of traffic," while on line 14, she states that it is "simply the 'physical linking of two networks for the **mutual exchange of traffic**.'" (Emphasis added.)

[18] Id at pages 761-762.

Q. On page 11, line 15, Ms. Shotwell states," Nothing in the Act assigns the financial responsibility to transport calls outside the service area to another carrier as requested by Sprint." Is this correct?

A. No. As discussed in Section III.A, above, The FCC and many state commissions have explicitly upheld the "Calling Party's Network Pays" principle, even when those costs include costs outside the originating carrier's service area.

D. Comments on the Direct Testimony of Peter C. Rasmusson

Q. Please describe Swiftel's Petition.

A. The Petition seeks suspension or modification of Swiftel's §§ 251(a) and (b) duties and obligations in five areas:

1. Local number portability ("LNP");[19]
2. Wireline local dialing parity;[20]
3. Wireless dialing parity;[21]
4. Reciprocal compensation on intraMTA wireless traffic.[22]
5. Toll dialing parity,[23]

The Direct Testimony of Mr. Rasmusson discussed each of the five areas.

[19] *In the Matter of the Petition of Brookings Municipal Utilities d/b/a Swiftel Communications for Suspension or Modification of Dialing Parity, Number Portability and Reciprocal Compensation Obligations*; Public Utilities Commission of the State of South Dakota Docket No. TC07-007; Petition; dated January 30, 2007; § II, page 8. [Swiftel Petition]
[20] Swiftel Petition; § III.A, page 10.
[21] Swiftel Petition; § III.B, page 12.
[22] Swiftel Petition; § IV, page 20.
[23] Swiftel Petition; § III.C, page 17.

I will address each area and explain why Mr. Rasmusson's analysis is in error and overstates the financial impact to Swiftel, and why the Commission should reject Swiftel's Petition.

1) Local Number Portability

Q. Swiftel claims that implementing LNP would cost Swiftel $104,600 in one-time non-recurring costs, and $3,920 in monthly recurring costs.[24] Are these estimates reasonable?

A. No, these cost estimates are unreasonable for at least four reasons. First, the burden of proof is on Swiftel. While Mr. Rasmusson provides several Exhibits populated with various cost estimates, these estimates are undocumented and unsupported by any vendor quotes, installation times, labor costs, etc. Many of the cost estimates are simply based on "Martin Group experience." At present, it is impossible to determine whether any of these numbers are reasonable.

Second, the FCC has established cost classification criteria for LNP.[25] In this Order, the FCC set strict guidelines for LNP cost recovery. Specifically, the FCC stated, "… we require LECs to distinguish clearly costs incurred for

[24] *Swiftel Petition*, page 8; and *Direct Testimony of Peter C. Rasmusson*, pages 3 – 5 and Exhibit 1A.
[25] *Telephone Number Portability Cost Classification Proceeding*, FCC Docket No. 95-116, Memorandum Opinion and Order, Released December 14, 1998,

narrowly defined portability functions from costs incurred to adapt other systems to implement LNP, such as repair and maintenance, billing, or order processing systems." Swiftel's testimony does not meet this standard.

Third, the majority of Swiftel's costs are "administrative" in nature. Within the FCC's Part 32 Accounts Manual, the "administrative" costs are part of corporate overhead accounts. Corporate overhead costs are generally recognized as "common" costs. In LNP cost recovery, the FCC has limited recovery of common costs to those directly incremental to LNP. The FCC has determined that, "… in reviewing the reasonableness of incremental overhead allocations, we consider the allocation factors used by state commissions to price unbundled network elements (UNEs) for interconnection agreements."[26] In my experience, UNE common cost factors are generally in the 10% range. Swiftel's "administrative" costs far exceed this FCC cost standard.

Fourth, as discussed in the testimony of James R. Burt, the FCC Rules provide for the recovery of these costs directly from a carrier's end-users.

Q. What is the financial impact on Swiftel for its obligation to provide Local Number Portability?

[26] Id at paragraph 36.

A. While Swiftel claims non-recurring costs of $104,000, and monthly recurring costs of $3,920, these costs are undocumented and unsupported. For discussion purposes, this analysis assumes 50% of Swiftel's switch and NPAC related costs are legitimate. (If Swiftel provides meaningful responses to Sprint's Discovery in this area, a proper analysis can then be made.) This analysis assumes that common costs are 10% of direct incremental LNP costs. Attachment RGF-1 replicates the information found on the table on page 21 of Swiftel's Petition, with Sprint's analysis added. As seen in Attachment RGF-1, Swiftel's per-line costs are reduced from $0.52 to $0.17 per month per line.

2) Wireline Local Dialing Parity

Q. Swiftel claims that the transmission associated with implementing wireline local dialing parity would cost Swiftel $1,838 in one-time non-recurring costs, plus $6,446 in monthly recurring costs.[27] Are these estimates reasonable?

A. No. These transmission-related costs are unreasonable for at least three reasons. First, these figures are, again, unsupported and undocumented.

Second, as discussed below, these transmission-related costs grossly overstate the amount of traffic originated by Swiftel.

[27] *Swiftel Petition*, page 11; and *Direct Testimony of Peter C. Rasmusson*, pages 5 – 7 and Exhibit 1B.

Third, also discussed below, these transmission-related costs are inconsistent with Swiftel's own cost estimates provided in the Arbitration Docket.

Q. Concerning your second reason, how has Mr. Rasmusson grossly overstated its originated traffic?

A. All of Swiftel's cost estimates assume the need for 5 DS1s to accommodate Swiftel's originating traffic to Sprint. This is based on an assumption that Swiftel will lose 30%[28] of its end-user market share to Sprint. Both of these estimates grossly overstate the likely case for at least four reasons.

First, while it is impossible to accurately forecast market share, the cable industry experience to date is the only evidence to make such a prediction. Attachment RGF-2 shows publicly available cable telephony penetration rates. It shows that it takes three to five years to reach a 10% penetration rate, and penetration rates slow down and stabilize just above 20%.

Second, these penetration rates are measured as a percent of households passed. Since the cable company network may not pass all locations within the ILEC's service territory, the actually cable penetration rate as measured (as a percent of the ILEC's end-users) will be less.

[28] *Swiftel Petition*, page 11; and *Direct Testimony of Peter C. Rasmusson*, page 8.

Third, Sprint will initially target only residential customers, limiting its market penetration rate.

Fourth, Sprint will begin with 0% market share, and will continue to have 0% market share until an Interconnection Agreement ("ICA") is signed and/or four months after CLEC certification.

Given the above data, it is reasonable to assume Swiftel will lose no more than 10% of its access lines within the two-year life of the ICA, much less than Swiftel's assumption that it will lose 30% of its access lines. Rather than requiring 5 DS1s, Swiftel will require only 1 DS1 at the outset, and no more than 2 at the end of the ICA's term.

Q. Concerning your third reason, how is Mr. Rasmusson's transmission cost estimate inconsistent with Swiftel's testimony in Arbitration Docket No. TC06-176?

A. Swiftel assumes the cost of a DS1 is a non-recurring charge of $442 plus a monthly recurring charge of $1,289.[29] However, in the Arbitration Docket, Swiftel used the HAI Model 5.0a to determine its costs of reciprocal compensation. Based on my experience in that proceeding, and knowledge of the HAI Model 5.0a, the HAI Model 5.0a also produces the cost of a DS1.

[29] *Direct Testimony of Peter C. Rasmusson*, page 7 and Exhibit 2B.

Swiftel's use of the HAI Model 5.0a produced a DS1 cost which is **[Begin Swiftel Confidential]** [redacted] [**End Swiftel Confidential]** than what Swiftel is proposing in this proceeding.[30] Using the HAI Model 5.0a with default inputs, recognizing Swiftel's actual host-remote network design,[31] Swiftel's DS1 cost is only $392 per month. Thus, based on the HAI 5.0a Model with default inputs, Swiftel has overstated its per DS1 transmission costs by a factor of **[Begin Swiftel Confidential]** [redacted] [**End Swiftel Confidential]** times.

Q. Regardless of the cost, is the originating carrier financially responsible to deliver its traffic to the terminating carrier's network?

A. Yes. Interconnection benefits the end-user customers of both Sprint and Swiftel by allowing those end-user customers to originate calls and to have those calls ultimately terminated to other customers. This is obviously the desire of the end-user customer who originates the call. As discussed in Section III.A, there is a long-standing FCC policy in the telecommunications industry that the "Calling Party's Network Pays," i.e. the originating caller is the cost-causer.

Q. What would be the consequences if Swiftel was not required to provide wireline dialing parity?

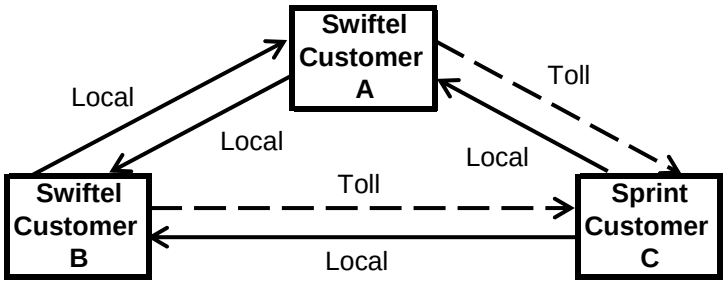
[30] Sprint has asked for the HAI 5.0a Model populated with Swiftel's inputs in Discovery. If Swiftel produces this information, Sprint can make a more Swiftel-specific analysis.
[31] *Arbitration Docket*; Direct Testimony of Randy G. Farrar, February 16, 2007, page 41; and Rebuttal Testimony of Randy G. Farrar, February 16, 2007, page 3.

A. In its local interconnection Arbitration with Swiftel, Sprint proposed that the most efficient means of interconnection would be for both parties to route local traffic through the Local Interconnection Facility, as illustrated in Attachment RGF-3, Diagram 1. This will allow both Swiftel end-users and Sprint end-users to call each other with traditional seven-digit local calling.

As illustrated in Attachment RGF-3, Diagram 2, without local dialing parity, Swiftel will not route the call from the Swiftel end-user to the Sprint end-user over the Local Interconnection Facility with Sprint. Rather, Swiftel will route that "local" call through the SDN network to the Swiftel end-user's presubscribed toll carrier, which will then terminate the call as a toll call.

The following illustration demonstrates the unequal calling patterns.

Unequal Calling Patterns Without Wireline Dialing Parity



Without Wireline Local Calling Parity, Swiftel Customers A and B can call each other as 7-digit local calls. But Swiftel Customers A and B will have to dial ten-digits, and will be charged for a toll call, to call their neighbor

Customer C served by Sprint. (Prior to local competition, when those same calls would have been 7-digit local calls.) Also, while Sprint Customer C can call Swiftel Customers A and B as 7-digit local calls, the reverse calls will be 10-digit toll calls.

Q. Is Swiftel's request to be exempt from providing wireline dialing parity in the public interest?

A. No. Swiftel's proposal to be exempt from providing wireline dialing parity is not in the public interest. Swiftel's end-users are now paying toll charges for calls which have been traditionally (and logically) local calls. Also, Sprint is now placed at a competitive disadvantage. End-users will be less likely to sign up for a competitor's service knowing that their friends, family, and neighbors will now have to dial a 10-digit toll call to reach them, when such a call had previously been a local call.

In other states where the Sprint business model is operating, Sprint has lost customers for this very reason.

Q. What is the financial impact on Swiftel for its obligation to provide Wireline Local Dialing Parity?

A. While Swiftel claims non-recurring costs of $1,838, and monthly recurring costs of $6,446, these costs reflect unreasonable overestimations of line loss and Swiftel originating traffic volume. Attachment RGF-1 replicates the

information found on the table on page 21 of Swiftel's Petition, with Sprint's analysis added. As seen in Attachment RGF-1, using more reasonable assumptions, Swiftel's per-line costs are reduced from $0.59 to $0.04 per month per line.

3) Wireless Dialing Parity

Q. Swiftel claims that implementing wireless dialing parity for Sprint alone would cost Swiftel $40,884 in one-time non-recurring costs, plus $8,078 in monthly recurring costs.[32] Swiftel also claims that implementing wireless dialing parity for all wireless carriers would cost Swiftel [Begin Swiftel Confidential] $ [End Swiftel Confidential] in one-time non-recurring costs, plus [Begin Swiftel Confidential] $ [End Swiftel Confidential] in monthly recurring costs.[33] Are these estimates reasonable?

A. No. As discussed in Sprint's response[34] to the Swiftel Petition, Swiftel's entire analysis is based on an incorrect interpretation of Sprint's interconnection proposal. Swiftel's actual costs are $0.

[32] *Swiftel Petition*, page 13; and *Direct Testimony of Peter C. Rasmusson*, pages 9 – 11, and Exhibit 3.
[33] *Swiftel Petition*, Exhibit 3; and *Direct Testimony of Peter C. Rasmusson*, pages 9 – 11, and Exhibit 3.
[34] *In the Matter of the Petition of Brookings Municipal Utilities d/b/a Swiftel Communications for Suspension or Modification of Dialing Parity, Number Portability and Reciprocal Compensation Obligations*; Public Utilities Commission of the State of South Dakota Docket No. TC07-007; Sprint's Response to Swiftel's Petition for Suspension or Modification. [Sprint Response]

Currently, Sprint must route Sprint-originated intraMTA traffic through the SDN network and pay terminating access to both SDN and Swiftel, as illustrated in Attachment RGF-4, Diagram 1.

Sprint proposes to route Sprint-originated intraMTA wireless traffic over the interconnection facility terminating to Swiftel end-user customers, as illustrated in Attachment RGF-4, Diagram 2.

Note that Sprint will continue to pay terminating access to Swiftel for all interMTA traffic.

Mr. Rasmusson's analysis and dire financial predictions are based on the false assumption that Swiftel must route its originating traffic through the interconnection facility with Sprint, as illustrated in Attachment RGF-4, Diagram 3. In fact, Swiftel is free to route originating traffic, including traffic destined to a wireless end-user, in any manner it chooses. Sprint has no authority, nor does it wish to direct how Swiftel should route its originating traffic.

Q. In addition, Swiftel also claims that providing wireless dialing parity for Sprint would cost Swiftel $610 in lost monthly access revenues. Further, Swiftel claims that providing wireless dialing parity for all

wireless carriers would cost Swiftel $6,450 in lost monthly access revenues.[35] Are these estimates reasonable?

A. No. Again, Sprint is not asking Swiftel to alter its originating call routing. Swiftel may continue to route these calls as 1+ 10-digit calls and receive originating access. However, since these are intraMTA calls, Sprint is properly due terminating reciprocal compensation.

Q. What is the financial impact on Swiftel for its obligation to provide Wireless Dialing Parity?

A. Swiftel's actual costs are $0. As discussed in the Sprint Response, the huge costs claimed by Swiftel reflect Swiftel's incorrect interpretation of Sprint's interconnection proposal. Attachment RGF-1 replicates the information found on the table on page 21 of Swiftel's Petition, with Sprint's analysis added. As seen in Attachment RGF-1, Swiftel's per-line costs are reduced from $0.86 (Sprint only) and $4.69 (all carriers) to $0.00.

4) Reciprocal Compensation

Q. Swiftel claims that providing wireless dialing parity for Sprint would cost Swiftel $107 in monthly recurring costs. Swiftel also claims that providing wireless dialing parity for all wireless carriers would cost

[35] *Swiftel Petition*, page 14; and *Direct Testimony of Peter C. Rasmusson*, pages 11 – 12, and Exhibit 4.

Swiftel $881 in monthly recurring costs.[36] Are these estimates reasonable?

A. No. These costs are reciprocal compensation payments rightfully billed by the wireless carrier for terminating Swiftel's originated traffic. Swiftel's analysis ignores the fact that Swiftel will also receive reciprocal compensation from these same wireless carriers. In fact, it is generally acknowledged that traffic between wireless carriers and RLECs is out-of-balance to the favor of the RLECs, generally in the range of 70% / 30%. (I.e., 70% wireless originated to 30% RLEC originated.) Thus, reciprocal compensation is likely a net gain to Swiftel.

Thus, if Swiftel paid reciprocal compensation to Sprint and the all wireless carriers $107 and $881, respectively, and assuming a 70% / 30% balance of traffic ratio, Swiftel will receive reciprocal compensation from Sprint and all wireless carriers $250 and $2,056, respectively. Thus, Swiftel will receive a net reciprocal compensation payment (i.e. revenues less expenses) from Sprint and all wireless carriers $80 and $1,175, respectively.

Q. What is the financial impact on Swiftel for its obligation to provide Reciprocal Compensation for intraMTA traffic?

[36] *Swiftel Petition*, pages 14, 20; and *Direct Testimony of Peter C. Rasmusson*, pages 13 – 14, and Exhibit 5.

A. Attachment RGF-1 replicates the information found on the table on page 21 of Swiftel's Petition, with Sprint's analysis added. As seen in Attachment RGF-1, Swiftel's per-line costs are reduced from $0.01 (Sprint only) and $0.09 (all carriers) to a net gain of $0.01 to $0.12 per month per line, respectively.

5) Toll Dialing Parity

Q. Swiftel claims that implementing equal access would cost Swiftel $17,000 in one-time non-recurring costs, plus $140 in monthly recurring costs. Are these estimates reasonable? [37]

A. No. Swiftel's actual costs are $0. As discussed in the Sprint Response, Swiftel's entire analysis is based on an incorrect interpretation of Sprint's interconnection proposal, as illustrated in Attachment RGF-5.

Sprint proposes to route Sprint-originated IXC traffic directly to the Sprint IXC network, as illustrated in Attachment RGF-5, Diagram 2. (Incidental non-Sprint IXC traffic, such as 800 and 1010XXX calls, will be routed to SDN.)

Swiftel's analysis and dire financial predictions are based on the false assumption that Swiftel must route Sprint's originating IXC traffic as

[37] *Swiftel Petition*, page 18; and *Direct Testimony of Peter C. Rasmusson*, pages 14 – 15, and Exhibit 6.

illustrated in Attachment RGF-5, Diagram 3; thus, the supposed need for equal access. This is not the case.

Q. Swiftel claims the transmission associated with implementing toll dialing parity for Sprint alone would cost Swiftel $2,885 in one-time non-recurring costs, plus $10,313 in monthly recurring costs. Swiftel also claims the transmission for all interexchange carriers ("IXCs") would cost Swiftel $15,449 in one-time non-recurring costs, plus $56,722 in monthly recurring costs.[38] Are these estimates reasonable?

A. No. Swiftel's actual costs are $0. As discussed above, Swiftel's entire analysis is based on an incorrect interpretation of Sprint's interconnection proposal, as illustrated in Attachment RGF-5.

Swiftel's analysis and dire financial predictions are based on the false assumption that Swiftel must route its originating IXC traffic through the interconnection facility with Sprint, as illustrated in Attachment RGF-5, Diagram 3. In fact, Swiftel is free to route originating traffic, including IXC traffic, in any manner it chooses. Sprint has no authority, nor does it wish to direct how Swiftel should route its originating traffic. Swiftel may continue to route its originating traffic as it always has, or in any manner it so chooses.

[38] *Swiftel Petition*, page 18; and *Direct Testimony of Peter C. Rasmusson*, pages 15 – 17, and Exhibit 7.

Attachment RGF-1 replicates the information found on the table on page 21 of Swiftel's Petition, with Sprint's analysis added. As seen in Attachment RGF-1, Swiftel's per-line costs are reduced from $0.99 (Sprint only) and $5.23 (all carriers) to $0.00.

E. Financial Analysis of "Undo Economic Burden"

Q. Please summarize your findings regarding the financial impact to Swiftel of meeting its Dialing Parity, Number Portability, and Reciprocal Compensation obligations.

A. As discussed in Section III.D, above, Swiftel greatly exaggerates the financial impact on Swiftel of meeting its dialing parity, number portability, and reciprocal compensation obligations. The following table compares the financial impact claimed by Swiftel and the actual financial impact. Attachment RGF-1 summarizes the total costs claimed by Swiftel and the actual cost to Swiftel. As can be seen, Swiftel claims a total five-year cost of $392,396 for Sprint only, and $1,469,174 for all carriers. The vast majority of these "costs" are directly due to Swiftel's incorrect interpretation of Sprint's interconnection proposal. The actual five-year cost to Swiftel is $25,844 for Sprint only, and $11,752 for all carriers.

Q. Does this represent an "undue economic burden" on Swiftel?

A. No. It is difficult to see how the minor cost of implementing Swiftel's duties and obligations under the Act can reasonably be considered an "undue economic burden" on Swiftel.

At present, Sprint does not have access to any Swiftel financial information. Sprint has asked for such information in its June 1, 2007 Discovery. If Swiftel provides this information, Sprint will conduct further analysis concerning the identification of an "undue economic burden" on Swiftel.

IV. CONCLUSION

Q. Please summarize your testimony.

A. As discussed in the Sprint Response, Swiftel has misinterpreted Sprint's interconnection proposal and, as a direct result, created many dire financial predictions that are simply wrong. Sprint has implemented this business model in many places without experiencing any of the problems envisioned by Swiftel.

Correcting Swiftel's misinterpretations, the total five-year cost to Swiftel of meeting its §§ 251(a)(1) and 251(b)(5) duties and obligations are approximately $25,844 for Sprint, and $11,752 for all carriers. Such a small cost cannot be considered an "undue economic burden" to Swiftel given the Eighth Circuit Court's guidance.

Q. Does this conclude your Direct Testimony?

A. Yes, it does.