
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 No. TC07-007

Direct Testimony of Jo Shotwell

**On Behalf of Brookings Municipal Utilities D/B/A Swiftel
Communications**

May 23, 2007

**PRE-FILED TESTIMONY
JO SHOTWELL**

1

2 **I. BACKGROUND**

3 **Q: Please state you name and business address.**

4 **A:** My name is Jo Shotwell and my business address is 3721 Executive Center Drive, Suite
5 200, Austin, Texas.

6 **Q: Please state the name of your employer, your position, and whom you represent in
7 this proceeding.**

8 **A:** I am employed with CHR Solutions, Inc. (CHR) as a Senior Vice President of Business
9 Compliance. My responsibilities for CHR include management of the firm's state and
10 federal regulatory practice, including regulatory policy development, contract
11 management services, as well as overall management of the Austin office. CHR is a
12 telecommunications management consulting company with offices in Austin, Dallas,
13 Houston, Lubbock, Texas, and Minneapolis, Minnesota with satellite offices in other
14 states. In this proceeding, CHR is representing Brookings Municipal Utilities d/b/a
15 Swiftel Communications (Swiftel) located in Brookings, South Dakota.

16 **Q: Please describe your educational background and your experience within the
17 industry.**

18 **A:** I graduated from Florida State University with a Bachelor of Science Degree and have
19 been employed in the telecommunications industry approximately 39 years. I was
20 employed with Central Telephone and Utilities, now part of the Embarq system, for over
21 eight years in Florida and Texas. In 1977 I joined the Public Utility Commission of
22 Texas (PUC) and worked in the engineering division until 1984. While at the PUC I was
23 involved with certification, quality of service, access, and tariff and rate design issues for

1 telecommunications utilities regulated by the PUC. Since 1984 I have been in the
2 telecommunications consulting business.

3 **Q: Have you previously appeared as an expert witness?**

4 **A:** Yes, I have appeared before the Texas PUC on numerous occasions. I have also
5 appeared before the State of Oklahoma and the State of New Mexico telecommunications
6 regulatory agencies. In addition, I have presented testimony in proceedings in the state
7 District Court in Austin, Texas as well as before the Texas Legislature on issues related
8 to telecommunications.

9 **Q: Have you previously appeared before this Commission?**

10 **A:** Yes. I filed Rebuttal Pre-Filed Testimony in TC06-176, Sprint's Petition for arbitration
11 to resolve interconnection issues pursuant to the federal Telecommunications Act of
12 1996.

13 **Q: Please describe your experience in regard to competitive issues in the**
14 **telecommunications arena.**

15 **A:** Since 1996, I have worked closely with the firm's clients in responding to the obligations
16 of the federal Telecommunications Act of 1996. This work has entailed review and
17 analysis of the changes in law and working with our clients to assist in understanding and
18 implementing the changes, and in addressing the issues with the new competitive
19 entrants. I have also assisted our clients in the development of their competitive ventures
20 in non-rural areas.

21

22 **II. PURPOSE OF TESTIMONY**

23 **Q: Please state the purpose of your testimony in this proceeding?**

24 **A:** My testimony addresses whether approval of the Petition filed by Swiftel seeking

1 suspension or modification of various interconnection provisions of 47 U.S.C. Section
2 251(b) pursuant to Section 251(f)(2) of the Communications Act of 1934, as amended
3 (Act) is in the public interest.

4 **Q: Are you providing legal analysis?**

5 **A:** No. I am not an attorney and the purpose of my testimony is not to provide legal analysis.
6 Rather, my testimony is based on my experience in the industry on regulatory policy
7 issues.

8 **Q: Please provide an overview of the changes enacted in the Act.**

9 **A:** As I stated in Rebuttal Pre-Filed Testimony filed in TC06-176, in 1996 Congress passed
10 wide-sweeping changes to the Act. The changes were monumental, and the first
11 significant legislative changes made to national telecommunications policy for many
12 years. The legislative changes broadly defined national rules for opening the local
13 networks of the incumbent local exchange carriers (ILECs) to local competition while at
14 the same time maintaining the goals of universal service throughout the nation.
15 Recognizing that the ILEC industry is comprised of more than 1,000 ILECs across the
16 nation that vary significantly in the number of customers served, customer demographics,
17 the geography and density of the service areas, Congress approved special provisions to
18 address the different operating characteristics of a multi-state Bell Operating Company,
19 mid-size companies and the small rural companies like Swiftel. Congress was clear that
20 one size of regulation does not fit all companies. Therefore, Congress enacted special
21 provisions that allow the smallest companies across the nation to request suspensions or
22 modification from certain requirements. In addition, the Act automatically provided rural
23 companies an exemption from the provision of interconnection, services, and network
24 elements.

1 **Q: Please explain your understanding of the regulatory duties of carriers as defined in**
2 **Section 251 of the Act.**

3 A: Section 251 of the Act is titled “Interconnection” and outlines duties related to
4 interconnection. Section 251(a) is a general duty that applies to all telecommunications
5 carriers, including local exchange carriers, interexchange carriers, and other types of
6 telecommunication carriers. Section 251(b) outlines specific duties of all local exchange
7 carriers and Section 251(c) outlines additional duties that apply to incumbent local
8 exchange carriers.

9 Section 251(a) (1) of the Act requires all telecommunications carriers “to interconnect
10 directly or indirectly, with the facilities and equipment of other telecommunications
11 carriers.” Section 251(a) does not require a telecommunications carrier to transport and
12 terminate another carrier’s traffic or to directly interconnect¹ with another carrier, nor
13 does 251(a) require the exchange of traffic. The duty of 251(a) is simply the “physical
14 linking of two networks for the mutual exchange of traffic.”²

15 Section 251(b) outlines duties of all local exchange carriers, including ILECs and
16 competitive local exchange carriers (CLECs) stating that “Each local exchange carrier
17 has the following duties...” The duties under 251(b) are: resale, number portability,
18 dialing parity, access to rights of way; and the duty to establish reciprocal compensation
19 for transport and termination of telecommunications. The Local Competition Order

¹ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499 (1996) *aff’d in part and vacated in part sub nom., Competitive Telecommunications Ass’n v. FCC*, 117 F3d 1068 (8th Cir. 1997) and *Iowa Utils. Bd. V. FCC*, 120 F.3d 753 (8th cir. 1997), *aff’d in part and remanded, AT&T Corp. V. Iowa Utils. Bd.*, 525 U.S. 366, 119 S.Ct. 721, 142 L.Ed. 2d 835 (1999); Order on Reconsideration. 11 FCC Rcd 13042 (1996), Second Order on Reconsideration, 11 FCC Rcd 19738 (1996), Third Order on Reconsideration and Further Notice of Proposed Rulemaking, FCC 97-295 (rel. August 18, 1997), (*Local Competition Order*), at para. 997.

² Local Competition Order at para. 176.

1 referenced earlier states that “reciprocal compensation for transport and termination of
2 calls is intended for a situation in which two carriers collaborate to complete a local
3 call.”³

4 Section 251(c) outlines additional duties for ILECs. The duties include the duty to
5 negotiate interconnection at any technically feasible point, access to unbundled network
6 elements, resale at a discount, and collocation.

7 Rural ILECs have a rural exemption from the duties of Section 251(c) unless a state
8 commission determines that the rural exemption should be lifted in accordance with
9 Section 251(f)(1). In addition, rural ILECs have the ability to request from a state
10 commission a suspension and modification of the Act’s Sections 251(b) and (c)
11 requirements under Section 251(f)(2). Section 251(f) provisions demonstrate Congress’
12 recognition that the requirements of section 251(b) and (c) may not be in the public
13 interest for rural ILECs.

14
15 **III. REGULATORY REQUIREMENTS FOR SUSPENSION OR MODIFICATION**
16 **OF CERTAIN SECTION 251(b) PROVISIONS**

17 **Q: What is the purpose of Section 251(f)(2)?**

18 A: Section 251(f)(2) of the Act states:

19 “A local exchange carrier with fewer than 2 percent of the Nation’s
20 subscriber lines installed in the aggregate nationwide may petition a
21 State commission for a suspension or modification of the application
22 of a requirement or requirements of subsection (b) or (c) to
23 telephone exchange service facilities specified in such petition. The
24 State commission shall grant such petition to the extent that, and for
25 such duration as, the State commission determines that such
26 suspension or modification—
27 (A) is necessary—

³ Local Competition Order at para. 1034.

1 (i) to avoid a significant adverse economic impact on users
2 of telecommunications services generally;
3 (ii) to avoid imposing a requirement that is unduly
4 economically burdensome; or
5 (iii) to avoid imposing a requirement that is technically
6 infeasible; and
7 (B) is consistent with the public interest, convenience, and
8 necessity.”
9

10 Consequently, Section 251(f)(2) of the Act provides rural ILECs like Swiftel the ability
11 to petition their state commission to be relieved of requirements within Section 251(b) or
12 Section 251(c) when those requirements would impose a “significant adverse economic
13 impact on users of telecommunications services” are “unduly economically burdensome”
14 and the relief “is consistent with the public interest, convenience, and necessity.” In this
15 proceeding, Swiftel has petitioned this commission for suspension or modification of
16 requirements of Section 251(b)(2) Numbering Portability; (b)(3) Dialing Parity; and
17 (b)(5) Reciprocal Compensation.

18 **Q: Please state the LEC requirements of Section 251(b)(2), (3), and (5).**

19 **A:** Section 251(b)(2) of the Act states the obligation for all LECs to provide Number
20 Portability. Section 251(b)(2) reads:

21 “NUMBER PORTABILITY.—The duty to provide, to the extent
22 technically feasible, number portability in accordance with
23 requirements prescribed by the Commission.”
24

25 The Act further defines Number Portability as: “...the ability of users of
26 telecommunications services to retain, at the same location, existing telecommunications
27 numbers without impairment of quality, reliability, or convenience when switching from
28 one telecommunications carrier to another.”⁴

29 Section 251(b)(3) of the Act outlines the obligation for all LECs to provide Dialing

⁴ 47 U.S.C. § 153, Section 3 (46) Number Portability.

1 Parity. Section 251(b)(3) reads:

2 “DIALING PARITY.—The duty to provide dialing parity to
3 competing providers of telephone exchange service and telephone
4 toll service, and the duty to permit all such providers to have
5 nondiscriminatory access to telephone numbers, operator services,
6 directory assistance, and directory listing, with no unreasonable
7 dialing delays.”

8
9 The Act further defines Dialing Parity as: “...a person that is not an affiliate of a local
10 exchange carrier is able to provide telecommunications services in such a manner that
11 customers have the ability to route automatically, without the use of any access code,
12 their telecommunications to the telecommunications services provider of the customer’s
13 designation from among 2 or more telecommunications services providers (including
14 such local exchange carrier)”.⁵ Later in testimony I will further explain the difference in
15 local dialing parity and toll dialing parity.

16 Section 251(b)(5) of the Act states the obligation for all LECs to provide Reciprocal
17 Compensation. Section 251(b)(5) reads:

18 “RECIPROCAL COMPENSATION.—The duty to establish
19 reciprocal compensation arrangements for the transport and
20 termination of telecommunications.”

21
22 The Act does not define Reciprocal Compensation; however, Reciprocal Compensation is
23 an arrangement whereby an originating carrier maybe be required to compensate the
24 terminating carrier for use of its facilities for transport and termination of traffic.

25
26 **IV: JUSTIFICATION IN SUPPORT OF SWIFTEL’S SUSPENSION OR**
27 **MODIFICATION PETITION**
28 **Number Portability**

⁵ 47 U.S.C. § 153, Section 3 (39) Dialing Parity.

1 **Q: What is Number Portability?**

2 A: Most often referenced as “Local number portability” (LNP), LNP refers to the ability of
3 an end user to change local service providers and retain their existing local telephone
4 number within the same rate center. When a local number is ported from one local
5 service provider to another, all calls terminating to that number must query an LNP
6 database to obtain routing information to route the call to the proper local service
7 provider for termination to the end user.

8 **Q: Please state Swiftel’s request in this proceeding.**

9 A: Swiftel has requested through its Petition to modify the obligation to provide intramodal
10 (wireline to wireline) LNP by allowing Swiftel to postpone implementation of LNP until
11 4-months after Sprint’s CLEC, or another CLEC’s, certification for providing local
12 exchange service within Swiftel’s rate center has been approved. In addition, Swiftel has
13 requested modification or clarification of its transport responsibility associated with a
14 porting request beyond its service area.

15 **Q: Are the costs of LNP significant?**

16 A: Yes. As shown in the testimony of Mr. Rasmusson, there are significant costs associated
17 with implementing LNP including the cost of accessing the various LNP databases,
18 modifying company processes and training company employees.

19 **Q: Who bears the cost of implementing LNP?**

20 A: Swiftel’s end users will bear the costs of implementing LNP either through an FCC
21 allowed LNP surcharge or through general increases in basic rates. Swiftel may also be
22 forced to bear some of the cost of implementing LNP to the extent that such cost may not
23 be recovered from subscribers.

24 **Q: Did the FCC establish a cost recovery mechanism for the cost of implementing**

1 **LNP?**

2 A: Yes. The cost of implementing LNP would be assessed to all of Swiftel's end users
3 regardless of whether any of these end users are able to port numbers to another carrier.
4 The testimony and data provided in this proceeding regarding costs and the resulting rate
5 implications support the conclusion that the subscribers of Swiftel would be shouldering
6 significant rate increases to recover these costs, regardless of whether any customers
7 actually port their numbers.

8 **Q: Will consumers benefit from the implementation of LNP?**

9 A: Not at this time. Currently, there is no wireline carrier other than Swiftel authorized to
10 provide local service in Swiftel's service territory. Until another wireline carrier is
11 authorized to provide local service, Swiftel's customers cannot port their numbers.
12 Two entities, Sprint and MCC, have filed an application for authority to provide local
13 service in Swiftel's service area. However, it is not at all clear that their applications will
14 be granted. Accordingly, it is not in the public interest for the rural customers of Swiftel
15 to incur the cost of implementing LNP and to divert Swiftel's resources until another
16 wireline carrier is authorized to provide local service. Swiftel's request is in the public
17 interest because it will ensure that Swiftel's customers are required to bear the cost of
18 LNP *only* when they are able to benefit from LNP.

19 **Q: What harm would result to a competitive carrier, like Sprint or MCC, if Swiftel's**
20 **request is granted?**

21 A: Until such time that a competitive local service provider receives authority to provide
22 local service in Swiftel's service area, there would be no harm to any other carrier if
23 Swiftel's request to delay LNP implementation is granted. Swiftel is requesting that it be
24 allowed to delay LNP implementation until 4-months after a carrier receives

1 authorization to provide service in the same rate center. With a 4-month delay, it is
2 unlikely any carrier would be harmed because any newly certificated carrier, most likely,
3 will not be in a position to provide local service much before that time.

4 **Q: Why do you believe a newly certificated carrier will not be in a position to provide**
5 **local service immediately?**

6 A: There usually is some period of time after a carrier is certificated before it is
7 operationally able to provide local service. For example, it could take up to 66 days for a
8 newly certificated carrier to obtain telephone numbers from the numbering administrator.
9 Without numbers to assign to end users a carrier will not be in a position to offer service.
10 In addition, interconnection agreements have to be completed and approved by the
11 Commission, and network trunking, including 911 trunking, has to be negotiated,
12 engineered, constructed, and tested. It seems unlikely any carrier will be able to offer
13 service within the 4-month period that is being requested by Swiftel.

14 **Q: Does Swiftel's request to modify the LNP implementation timeline meet the**
15 **requirements of Section 251(f)(2)?**

16 A: Yes. Granting Swiftel's request to delay implementation of LNP would avoid a potential
17 adverse economic impact on end users while at the same time would avoid imposing a
18 requirement that may be unduly burdensome to the company and which has no public
19 interest benefit should a carrier not obtain certification within the service area.

20 Therefore, Swiftel's request is in the public interest.

21 **Q: Swiftel also requests modification of the LNP requirement to the extent that it**
22 **would require Swiftel to pay for the transport of calls to ported numbers beyond its**
23 **service territory. Is this request in the public interest?**

24 A: Yes. As shown in the testimony of Mr. Rasmusson, the cost to transport calls beyond

1 Swiftel's service territory is significant, whether the call is to a ported number or not.

2 **Q: Please explain what is at issue regarding transport of calls?**

3 A: The transport issue is a relevant issue for intramodal LNP and it is also significant in the
4 context of wireline to wireline dialing parity that will be discussed in more detail later in
5 testimony. The LNP transport issue arises when a CLEC seeks to require Swiftel to pay
6 for the transport of local calls beyond Swiftel's service territory. For example, in the
7 context of the arbitration Petition filed by Sprint⁶, Sprint argues that Swiftel must be held
8 financially responsible for transporting its end user's local calls that originate and
9 terminate within the Swiftel rate center, including calls to ported numbers, to any point in
10 the LATA. Sprint, for example, believes that it has the right to establish a network
11 interconnection point of interface (POI) at any location it desires and then Swiftel has the
12 financial responsibility to incur the cost of transport to the POI. Thus, even though LNP
13 when requested by a CLEC is required only for end users to originate and terminate calls
14 within Swiftel's service area, Swiftel would be required to pay to transport all calls to
15 Sioux Falls or any other point in the LATA. Nothing in the Act assigns the financial
16 responsibility to transport calls outside the service area to another carrier such as
17 requested by Sprint.

18 **Q: Who would bear the cost if Swiftel is required to transport local calls or ported calls**
19 **beyond its service territory?**

20 A: The end users of Swiftel will ultimately bear the costs. The FCC allows ILECs to impose
21 a surcharge on end users for a period of five years to recover the costs of LNP
22 implementation, although it is not clear that transport costs could be recovered through

⁶ 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, TC06-176.

1 the LNP surcharge. Costs that could not be recovered through the LNP surcharge would
2 be recovered from end users through general increases in basic rates. Swiftel may also
3 be forced to bear some of the cost to the extent that such cost may not be recovered from
4 end users.

5 **Q: How will the public interest be affected if Swiftel is required to pay for transporting**
6 **ported calls or local calls beyond its service territory?**

7 A: A requirement that Swiftel must pay to transport local calls beyond its service area would
8 amount to a transfer of the cost of providing service from the competitive carrier and its
9 customers to Swiftel and its customers. Swiftel's customers would not benefit from this
10 anomaly. The customers of the competitive carrier may benefit because they may enjoy
11 lower rates if the competitive carrier can successfully require Swiftel to absorb its costs.

12 **Q: Does this comply with cost causer principles?**

13 A: No. The request by Sprint for Swiftel to incur the costs of transport is tantamount to
14 shifting a competitors' cost of providing service to another service provider's end users.
15 I am not aware of any orders from the FCC or this commission that would allow a
16 competitor to establish a POI outside a rural LECs rate center in which they intend to
17 provide service and require the competing rural ILEC to incur the costs of that business
18 decision. Sprint has the ability to place its switch any place in the nation for that matter,
19 however, the cost to transport calls to and from that switch location should be born by
20 Sprint - not the competing carrier's end users.

21 **Q: Doesn't the shifting of cost from the competitor to the incumbent promote**
22 **competition, which is one of the purposes of the Act?**

23 A: Even if it could be argued that such cost shifting promotes competition and, therefore,
24 complies with the Act, that argument is not valid in the context of a Section 251(f)(2)

1 petition. As stated earlier in this testimony, Congress recognized the Act's section 251(b)
2 requirements may need to be modified to accommodate the unique circumstances of the
3 small carriers and that certain requirements may be *unfair or inappropriate* to apply to a
4 small rural ILEC like Swiftel.

5 **Q: Would approval of Swiftel's request harm competition or competitors?**

6 A: No. A competitive carrier still could route local and ported calls to any point beyond the
7 service area if that network arrangement is its preference. However, the competitive
8 carrier would have the *financial* responsibility of transporting local and ported calls
9 beyond Swiftel's service area. This would ensure that the cost causer bears the cost of
10 its business decision, which should promote efficient economic competition.

11 Furthermore, requiring a rural ILEC to *incur the costs* of another provider's network
12 arrangement is not required to further competition. Swiftel's request is within the public
13 interest and avoids adverse economic impact to Swiftel's end users and potential
14 economic harm to Swiftel particularly if other *competitive carriers require equal*
15 treatment.

16
17 **Dialing Parity**

18 **Q: What is Dialing Parity?**

19 A: Dialing parity is generally referred to as either *Local* Dialing Parity or *Toll* Dialing
20 Parity. I will discuss the Act's dialing parity requirements separately. In its Second
21 Report and Order on local competition, the FCC found that Section 251(b)(3) made no
22 distinction among traffic types and "...creates a duty to provide dialing parity to
23 competing providers of telephone exchange service and telephone toll service with

1 respect to all telecommunications services that require dialing to route a call...”.⁷

2 For *local* dialing parity, the FCC requires all LECs to “...permit telephone exchange
3 service customers within a local calling area to dial the same number of digits to make a
4 local telephone call, notwithstanding the identity of the customer’s or the called party’s
5 telecommunications service provider.”⁸ In other words, all end users in a local calling
6 area should be required to dial the same number of digits (i.e., seven or ten) to make a
7 local telephone call to the competing carriers’ end users. Section 251(b)(3) is an
8 interconnection requirement that is imposed only on “LECs” which by definition does
9 not include wireless providers.⁹

10 For *toll* dialing parity, the FCC requires all LECs to “...implement toll dialing parity
11 through a presubscription process that permits a customer to select a carrier to which all
12 designated calls on a customer’s line will be routed automatically. LECs shall allow a
13 customer to presubscribe, at a minimum, to one telecommunications carrier for all
14 interLATA toll calls and to presubscribe to the same or to another telecommunications
15 carrier for all intraLATA toll calls.”¹⁰ The presubscription process is referred to as
16 providing “equal access” services to IXCs.

17 In Swiftel’s case, this presubscription method of offering toll dialing parity is obtained
18 through the centralized equal access services of the South Dakota Network (SDN) and
19 the presubscription functions are not currently provided from Swiftel’s end office switch.
20 The toll dialing parity presubscription process as outlined in the FCC’s Part 51.209 rules
21 and regulations do not apply to wireless carriers.

⁷ *Local Competition Second Report and Order*, 11 FCC Rcd at 19392; vacated in part, *California v. FCC*, 124 F.3d 934 (8th Cir. 1997); rev’d *AT & T Corp. v. Iowa Utilities Bd.*, 119 S. Ct. 721 (Jan. 25, 1999).

⁸ 47 U.S.C. § 51.207 Local dialing parity.

⁹ 47 U.S.C. § 154 Section 3 (44)

¹⁰ 47 U.S.C. § 51.209(b) Toll dialing parity.

1 It is clear that local and toll dialing parity requirements do not apply to a wireless carrier
2 and that position is expressed by the FCC in its Second Report and Order on Local
3 Competition at paragraph 29 where, the FCC states:

4 “Finally, we note that CMRS providers are not required to
5 provide dialing parity or nondiscriminatory access under
6 section 251(b)(3) because the Commission has not
7 determined that CMRS providers are LECs and section
8 332(c) of the Communications Act of 1934 provides that a
9 “person engaged in the provision of commercial mobile
10 services...shall not be required to provide equal access to
11 common carriers for the provision of toll services.”¹¹
12

13 **Q: Swiftel requests modification of the local dialing parity requirement in connection**
14 **with wireline to wireless calls. Is this request in the public interest?**

15 A: Yes. Swiftel requests a modification of wireless local dialing parity to ensure MTA-wide
16 local calling is not required for traffic exchanged between Swiftel and wireless carriers.
17 Mr. Adkins explains in his testimony that currently, for calls to wireless end users that
18 terminate beyond Swiftel’s local calling area (even if such calls terminate in the MTA)
19 Swiftel’s end users dial such calls using 1+ ten-digit dialing. Currently, except for some
20 EAS arrangements, all calls that terminate outside Swiftel’s local calling area are handed
21 to the end user’s presubscribed IXC for transport and termination to the carrier’s end
22 users. Swiftel does not have the authority to arbitrarily change the end user’s choice of
23 interexchange carrier. Swiftel, like all other rural ILECs, was required to strictly follow
24 the FCC’s rules and regulations regarding equal access implementation and allow the
25 customer to make the choice of IXC.

26 **Q: Please explain why it is in the public interest to allow Swiftel to continue to require**
27 **1+ ten-digit dialing instead of seven-digit dialing for calls that terminate beyond**

¹¹ 47 U.S.C. §332 (c)(8).

1 **Swiftel's service area but within the MTA.**

2 A: It is my understanding that Swiftel cannot implement seven-digit dialing for all calls that
3 originate in Swiftel's local calling area and terminate to a wireless carrier within the
4 MTA. As shown in Mr. Adkin's testimony, to implement local dialing parity for all
5 wireless NPA-NXXs in the Minneapolis MTA, Swiftel would require all local calls to be
6 dialed on a ten-digit basis. Ten-digit dialing would be required because several NXXs
7 are used in more than one NPA within the Minneapolis MTA.¹² For example, the 996
8 NXX is used in the 702, 605, and 612 NPA.

9 As demonstrated in the testimony of Mr. Rasmusson and Mr. Adkins, a change in dialing
10 would impose significant cost and other burdens on end users and Swiftel. Ten-digit
11 dialing would require switch translation changes that could require the implementation of
12 additional switch memory, at additional cost to Swiftel and its end users. The
13 implementation of ten-digit dialing for all local calls would be disruptive to all of
14 Swiftel's end users. In addition, the current dialing pattern, where calls that terminate
15 beyond the Swiftel's local calling area are dialed on a 1+ ten-digit basis and routed to an
16 IXC, ensures that Swiftel does not pay for the transport of traffic beyond its service area.

17 **Q: Is the transport issue in the context of wireline to wireless local dialing parity**
18 **different than the transport issue previously discussed?**

19 A: In the context of wireline to wireless calls, the transport issue is different in that the FCC
20 has defined wireless local calls as calls that originate and terminate in the MTA, which
21 extends beyond Swiftel's service area. Some wireless carriers argue that this means the
22 ILEC must pay to transport calls to wireless customers to any point in the MTA. As part

¹² The Minneapolis MTA includes the eastern two thirds of South Dakota, parts of northern Iowa, western Wisconsin, most of Minnesota and all of North Dakota.

1 of this argument, some wireless carriers claim that a LEC must transport calls to a point
2 of presence anywhere within the MTA if the wireless carrier has populated the local
3 exchange routing guide (LERG) so as to rate the call to a Swiftel wire center, even
4 though the LERG dictates the routing of a call beyond the wireline local calling area.

5 **Q: Has this issue been raised at the Commission before?**

6 A: Yes. This Commission granted a suspension of wireline to wireless LNP to Swiftel and
7 other incumbent LECs in South Dakota, in part, based on the cost of the same type of
8 transport requirement in connection with wireline to wireless LNP. It appears that the
9 Commission's decision also was influenced by the fact that the issue of transport was
10 being examined by the FCC in a pending proceeding.

11 **Q: Has the FCC reached a decision in that proceeding?**

12 A. No. The wireless transport issue is still pending at the FCC.¹³

13 **Q: How do you weigh the public interest on this issue?**

14 A: Swiftel's request for a modification of wireless local dialing parity is in the public
15 interest because it will preserve the ability of end users to dial local calls on a seven-digit
16 basis and it avoids a tremendous increase in local costs, which could be recovered by
17 Swiftel only through an increase in local rates. In addition, it will preserve fair
18 competition among all local service providers, both wireline and wireless, because it will
19 treat calls to the customers of all local service providers in an equitable manner.

20 **Q: Will Swiftel's customers forego any benefits if the Petition is granted?**

21 A: It is not at all clear that there will be any benefit to customers in the long run if the
22 Petition is not granted. The potential benefit to Swiftel's customers if the Petition is not

¹³ See, *In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of traffic by ILECs*, CC-Docket 01-92, Petition of Sprint, May 9, 2002. The FCC requested comments however the matter is still pending.

1 granted is that they would no longer be assessed a separate toll charge by their IXC to
2 make certain wireless calls and they would no longer be required to dial 1+ ten-digits for
3 those wireless calls. However, they would have to dial ten digits for *all* local calls made
4 within the service area; and instead of some customers paying a separate identifiable toll
5 charge for certain wireless calls, all customer's basic local service charge most likely
6 would increase. Depending on the number of wireless toll calls customers currently
7 make and the amount of the local service increase that may be required to recover
8 implementation costs, it is possible that some customers would experience an overall cost
9 savings while other customers would experience an overall cost increase. In addition,
10 ten-digit dialing would require businesses to reprogram or update their
11 telecommunications equipment and, as a result, impose costs on them.

12 **Q: Will there be any harm to wireless carriers if Swiftel's Petition is approved?**

13 A: No. Approving Swiftel's Petition will not impede the provision of service by any
14 wireless carrier. The modifications requested by Swiftel would essentially preserve the
15 status quo under which the wireless carriers have been operating since the
16 implementation of the Act, during which time, they have significantly increased the
17 growth of wireless customers in South Dakota and other states. There is no reason to
18 believe that a continuation of the current practices would impede wireless services.

19 **Q: What is the toll dialing parity issue?**

20 A: In this proceeding Swiftel has requested a modification of toll dialing parity to ensure that
21 access traffic continues to be routed to and from Swiftel through SDN. Sprint CLEC has
22 requested to exchange local traffic with Swiftel with a direct trunk group that would also
23 be used to transport intrastate and interstate access traffic and wireless traffic. Pursuant
24 to orders by the FCC and this Commission, SDN was established as the centralized equal

1 access provider in South Dakota. Accordingly, Swiftel currently routes all access and
2 traffic over FGD common trunks to SDN, which performs the equal access switching
3 function and switches the calls to the appropriate IXC or terminating wireless carrier. As
4 a result, Swiftel currently does not distinguish interexchange calls to specific IXCs at its
5 end office. In addition, all toll traffic to Swiftel, other than Qwest intrastate toll traffic, is
6 routed to Swiftel via SDN. Swiftel does not pay for the transport of calls to and from
7 SDN. Rather, Swiftel assesses interstate or intrastate access charges to the IXCs.

8 **Q: Can a CLEC combine services with an affiliated IXC?**

9 **A:** In my opinion, a request for local interconnection (like the request made by Sprint CLEC
10 to Swiftel) does not give Sprint the latitude to request that all other traffic routed to a
11 Sprint affiliate (i.e. Sprint IXC and Sprint PCS wireless) be routed to Sprint's CLEC local
12 interconnection trunk group. Sprint's request is an attempt to circumvent the switched
13 access tariff and impose significant costs on Swiftel that would be required to implement
14 end office equal access functionality.

15 **Q: Please explain what the switched access service tariff requires of IXCs like Sprint.**

16 **A:** First, IXCs are required to order services from the switched access service tariffs on file
17 for Swiftel. Generally IXCs order direct connections to the access tandem which routes
18 traffic to and from an end office. However, when end offices utilize the services of a
19 centralized equal access tandem such as SDN, the interstate switched access service tariff
20 states that, "Direct Trunked Transport is not available: (1) from end offices that provide
21 equal access through a Centralized Equal Access arrangement....".¹⁴ In my opinion,
22 Swiftel is not required to offer direct trunking for IXC traffic from its end offices because

¹⁴ See National Exchange Carrier Association, Inc. (NECA) Tariff F.C.C. No. 5, 6th Revised page 5-5 at 5.2.1 Switched Access Service.

1 it uses a centralized equal access tandem. Furthermore, Swiftel is not required to
2 combine IXC toll and wireless traffic with local traffic as requested by Sprint.

3 **Q: Is Swiftel's requested modification to the toll dialing parity requirements within the**
4 **public interest?**

5 A: As shown in the testimony of Mr. Rasmusson, the cost of implementing toll dialing parity
6 is significant. As this Commission is aware, SDN is the centralized equal access provider
7 for nearly all rural ILECs in South Dakota. SDN was created when IXCs did not provide
8 long distance service to customers in rural ILEC service areas because the cost in relation
9 to the number of potential subscribers was prohibitive. By aggregating traffic and
10 providing one interconnection point through which all potential customers in the rural
11 ILECs' service territories could be accessed by all IXCs, including Sprint, SDN was the
12 catalyst for equal access and toll choice in South Dakota. Requiring Swiftel to provide
13 equal access from its end office switch would be duplicative of the equal access functions
14 Swiftel already provides via SDN. This Commission has already determined in previous
15 orders that the centralized equal access functions provided by the rural ILECs via SDN is
16 within the public interest and meet equal access obligations required by law. Requiring
17 Swiftel to incur the cost of the network changes required to implement end office equal
18 access is costly and duplicative of services currently being provided. Sprint's request to
19 route terminating toll calls to Sprint's end users over a combined local, toll and wireless
20 trunk group also will be costly to Swiftel and its end users. It is within the public interest
21 to require IXC's, including Sprint, to continue to route toll traffic to Swiftel's end users
22 via its existing toll facilities at the SDN access tandem and it is within the public interest
23 to continue to allow Swiftel to route originating toll traffic to IXCs via SDN.

1 **Reciprocal Compensation**

2 **Q: Please define reciprocal compensation?**

3 A: 47 CFR §51.701-717 describes the FCC’s rules and regulations applicable to reciprocal
4 compensation arrangements. At section 51.701(e) the rule reads as follows:

5 “....For purposes of this subpart, a reciprocal
6 compensation arrangement between two carriers is one in
7 which each of the two carriers receives compensation from
8 the other carrier for the transport and termination on each
9 carrier’s network facilities of telecommunications traffic
10 that originates on the network facilities of the other
11 carrier.”
12

13 Telecommunications traffic is defined at section 51.701(b)(1) & (2) for purposes
14 of reciprocal compensation to be:

15 “(b)(1) Telecommunication traffic exchange between a
16 LEC and a telecommunications carrier other than a
17 CMRS provider, except for telecommunications traffic
18 that is interstate or intrastate exchange access,
19 information access, or exchange services for such
20 access; or (2) Telecommunication traffic exchanged
21 between a LEC and a CMRS provider that, at the
22 beginning of the call, originates and terminates within
23 the same Major Trading Area as defined in §24.202(a)
24 of this chapter.”
25

26 Reciprocal compensation provisions of the Act have become an issue of great debate
27 within the industry primarily because of the differences in how the FCC has defined the
28 geographic area to which reciprocal compensation is due to wireless carriers.

29 **Q: What is the reciprocal compensation argument in connection with wireless traffic?**

30 A: The question is whether Swiftel should be required to pay reciprocal compensation for all
31 traffic originated by its end users, regardless if the call is handed to an end user’s retail
32 IXC. Currently, for calls handed to an IXC, Swiftel assesses access charges to the IXC

1 and does not pay reciprocal compensation on such calls. Some wireless carriers argue
2 that even if a call is handed to an IXC, if the call originates and terminates within the
3 MTA, the LEC must pay reciprocal compensation to the wireless carrier.

4 The wireless carrier's position is unreasonable in that it puts the LEC in the position of
5 paying a portion of the originating access revenues it receives from the IXC when the
6 IXC is the carrier that received the retail revenues from the end user. The IXC's retail
7 rates are designed to compensate both the originating and terminating access carriers for
8 use of their networks to complete the IXC's call.

9 **Q: What is Swiftel's position on this issue?**

10 **A:** Swiftel does not believe it should be financially responsible to compensate the wireless
11 carriers for traffic that is handed to an IXC. Traffic that is handed to an IXC is not traffic
12 that is "exchanged" between a wireline carrier and wireless carrier but is traffic that is
13 "exchanged" between an IXC and a wireless carrier. Swiftel receives no retail revenues
14 on such calls. Swiftel has requested through its Petition a modification of the reciprocal
15 compensation provision to ensure such that it is not required to compensate a wireless
16 carrier for traffic that is handed to an IXC.

17 **Q: Is this issue currently pending before the FCC?**

18 **A:** Yes. A review of issues related to wireline and wireless reciprocal compensation along
19 with many other intercarrier compensation issues is underway at the FCC through CC
20 Docket No. 01-92, In the Matter of Developing a Unified Intercarrier Compensation
21 Regime. This docket was initiated by the FCC in April 2001 with the intended purpose
22 of reviewing all intercarrier compensation regimes.

23 **Q: Does the FCC's agree that wireless carriers should be allowed to charge IXCs for**
24 **terminating traffic?**

1 A: Yes. The FCC addressed this issue in a declaratory ruling filed by Sprint PCS in July
2 2002.¹⁵ Although this was a declaratory ruling that was referred back to the courts, the
3 FCC did declare that a wireless provider could seek termination charges from an IXC,
4 however, a contractual agreement between the IXC and wireless carrier was required
5 prior to application of terminating charges.

6 Since wireless carriers can charge IXCs for terminating traffic, it would allow double
7 recovery to wireless carriers if Swiftel also was required to pay the wireless carrier
8 reciprocal compensation.

9 **Q: How do you weigh the public interest on this issue?**

10 A: As demonstrated by Mr. Rasmusson, payment of reciprocal compensation for all
11 terminating traffic to wireless carriers as requested by the wireless carriers would
12 increase Swiftel's reciprocal compensation expense. This would result in a significant
13 adverse economic impact on end users, to the extent that Swiftel flows this cost through
14 to end users. To the extent Swiftel does not flow this cost through to end users, it would
15 be burdensome on Swiftel. On the other hand, there would be no benefit to end users.
16 End users still would be assessed a toll charge for calls handed to an IXC.

17 **Q: Would approval of Swiftel's request harm competition or wireless carriers?**

18 A: No. Approval of Swiftel's request preserves the current reciprocal compensation regime
19 between Swiftel and wireless carriers. Swiftel currently does not pay reciprocal
20 compensation for calls handed-off to IXCs. The modifications requested by Swiftel
21 would ensure that all competitors—both wireline and wireless carriers—are treated

¹⁵ Petition of Sprint PCS and AT&T Corp. for Declaratory Ruling Regarding CMRS Access Charges, FCC, WT Docket No. 01-316, Declaratory Ruling, rel. July 3, 2002 (FCC 02-203), ("Sprint Declaratory Ruling") this action was initiated by Sprint Spectrum LP against AT&T for recovery of access charges billed by Sprint to AT&T for recovery of Sprint's costs to terminate AT&T's long distance calls to Sprint's PCS end users.

1 equally. Accordingly, by approving the modifications requested, all competitive carriers
2 would be treated the same and fair competition would be advanced.

3 In addition, approving the Petition filed by Swiftel would not impede the provision of
4 service by any wireless carrier. As indicated, the modifications requested by Swiftel
5 would, essentially, preserve the conditions under which wireless carriers have been
6 operating since the implementation of the Act. There is no evidence that continuation of
7 the current practices would impede wireless competition.

8 **Q: Does this conclude your testimony at this time?**

9 **A: Yes it does.**

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