

**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	)	DOCKET NUMBER
SUSPENSION OR MODIFICATION OF	)	TC08-017
47 U.S.C. SECTION 251(B)(2) OF THE	)	
COMMUNICATIONS ACT OF 1934,	)	
AS AMENDED	)	

**OPPOSITION OF BROOKINGS MUNICIPAL UTILITIES  
D/B/A SWIFTEL COMMUNICATIONS TO  
PETITION TO INTERVENE FILED BY  
MCC TELEPHONY OF THE MIDWEST, INC., D/B/A MEDIACOM**

1. On February 8, 2008, Brookings Municipal Utilities d/b/a Swiftel Communications (hereinafter "Swiftel") filed with the Commission a Petition for Suspension or Modification of its obligations as a local exchange carrier in connection with the provision of intermodal (wireline to wireless) local number portability (LNP) and LNP to interconnected Voice over Internet Protocol (VoIP) providers. Swiftel has requested immediate suspension of these obligations.

2. On February 29, 2008, MCC Telephony of the Midwest, Inc., d/b/a Mediacom filed a Petition to Intervene. Mediacom states that it is a "certificated telecommunications carrier under the jurisdiction of the Commission, providing/seeking to provide competitive local exchange service and long distance service within the state in both rural and non-rural local exchanges." Mediacom Petition at 1, para. 1. Mediacom alleges that as "a local exchange carrier any action by the Commission dealing with local number portability, if too broadly fashioned, will potentially have a direct

financial impact upon Mediacom and its ability to do business in this state.” Mediacom  
Petition at 1, para. 3

3. Swiftel objects to allowing Mediacom to intervene. In its Order dated February 6, 2007 in TC06-181, the Commission found that a proceeding involving a petition for suspension or modification of Section 251(b) requirements is a contested case. The standard for intervention in a contested is set forth in the statutes of the State of South Dakota as well as the Administrative Procedures and Rules.

Specifically, SDCL 1-26-17.1 states:

"A person who is not an original party to a contested case and whose pecuniary interest would be directly and immediately affected by an agency's order made upon the hearing may become a party to the hearing by intervention, if timely application therefor is made."

The South Dakota Public Utilities Commission has adopted Administrative Rules that generally address petitions to intervene. See generally 20:10:01:15.05. Under these rules, the Petitioner filing the intervention must show:

"That the petitioner is specifically deemed by statute to be interested in the matter involved, that the petitioner is specifically declared by statute to be an interested party to the proceedings, or that by the outcome of the proceeding the petitioner will be bound and affected either favorably or adversely with respect to an interest peculiar to the petitioner as distinguished from an interest common to the public or to the taxpayers in general."

Under either standard Mediacom has failed to meet the standards to be allowed to intervene.

4. Swiftel's Petition, on its face, is limited to its obligation in connection with the provision of LNP to wireless carriers and interconnected VoIP providers. Mediacom alleges that it is a telecommunications carrier

providing competitive local exchange service and long distance service. In fact, Mediacom has a petition pending before the Commission in which it requests certification to provide competitive local exchange service in Swiftel's service area. On its face, therefore, Swiftel's Petition does not impact or affect any obligation to provide LNP to Mediacom as a non-wireless telecommunications carrier. Accordingly, Mediacom will not be "bound and affected either favorably or adversely with respect to an interest peculiar to the petitioner as distinguished from an interest common to the public or to the taxpayers in general."

5. Further, Mediacom does not demonstrate any pecuniary interest and has no pecuniary interest that would be directly and immediately affected by any decision made in this case and therefore Mediacom should not be allowed to intervene.

WHEREFORE, it is requested that the Petition to Intervene of Mediacom be denied.

**BROOKINGS MUNICIPAL UTILITIES  
D/B/A SWIFTEL COMMUNICATIONS**

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March 20, 2008

CERTIFICATE OF SERVICE

I hereby certify that an original of the OPPOSITION OF BROOKINGS MUNICIPAL UTILITIES D/B/A SWIFTEL COMMUNICATIONS TO PETITION TO INTERVENE FILED BY MCC TELEPHONY OF THE MIDWEST, INC. D/B/A MEDIACOM, dated March 20, 2008, filed in Docket TC08-017 was served upon the following on the same date:

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