

**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
SPRINT COMMUNICATIONS COMPANY, L.P.**

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, Sprint Communications Company, L.P. (Sprint) filed a Petition to Intervene. Sprint states that it is a "telecommunications carrier providing interexchange services in South Dakota" and that it holds a certificate of authority "authorizing Sprint to offer local exchange telecommunications services throughout South Dakota." Sprint Petition at 1, para. 1. Sprint further states that it filed a request to provide competitive local exchange service in Swiftel's service area, which is pending before the Commission in Docket No. TC06-178. Sprint Petition at 2, para. 4. Sprint also states that it filed a Petition for Arbitration with the Commission in

connection with an interconnection agreement between Sprint and Swiftel, which is pending in TC Docket No. 06-176 and that there is a pending Suspension Petition filed by Swiftel concerning wireline LNP and dialing parity, Docket No. TC07-007, in which Sprint is an Intervenor.

3. Sprint argues that pursuant to its pending arbitration proceeding with Swiftel and its pending certificate of authority request, Sprint will provision jointly with Mediacom “a fixed interconnected VoIP service.” Sprint Petition at 2, para.5. Sprint states that it is “concerned that the suspension sought by Swiftel is intended to apply to the business model that Sprint will use to provide services to South Dakota customers.” Sprint Petition at 3, para.6. Sprint further states that “[t]here is no justification to treat LNP for the jointly provided services that Sprint will utilize any differently than wireline to wireline LNP merely because the service to the end user is an interconnected VoIP service.” Sprint Petition at 3, para.6. Sprint alleges that because of these concerns, it is a necessary party to the proceeding to protect its rights in its arbitration and certificate of authority proceeding. Finally, Sprint states that its “ability to operate and provide services either as a CLEC and an IXC would all be impacted adversely should Swiftel’s requests for relief be granted.” Sprint Petition at 3, para.8.

4. Swiftel objects to allowing Sprint 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 Sprint 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 telecommunications carriers and interconnected VoIP providers. Sprint states that it is a telecommunications carrier providing competitive local exchange service and long distance service and in its pending certification petition, Sprint requests certification to provide competitive local exchange service in Swiftel's service area. Accordingly, Sprint alleges that it is a wireline telecommunications carrier. On its face, therefore, Swiftel's Petition does not impact or affect any obligation to provide LNP to Sprint as a non-wireless telecommunications carrier. Thus, Sprint 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, Sprint 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, Sprint should not be allowed to intervene.

6. If, however, Sprint is now abandoning its claim to be a telecommunications carrier on the basis that it provides an interconnected VoIP service, Sprint should make that clear.

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

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

/s Richard J. Helsper
Richard J. Helsper
GLOVER & HELSPER, P.C.
415 8TH Street South
Brookings, SD 57006
(605) 692-7775

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

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 SPRINT COMMUNICATIONS COMPANY, L.P. dated March 20, 2008, filed in Docket TC08-017 was served upon the following on the same date:

MS PATRICIA VAN GERPEN
EXECUTIVE DIRECTOR
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
500 EAST CAPITOL
PIERRE SD 57501
patty.vangerpen@state.sd.us

MS ROLAYNE AILTS WIEST
STAFF ATTORNEY
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
500 EAST CAPITOL
PIERRE SD 57501
rolayne.wiest@state.sd.us

MR HARLAN BEST
STAFF ANALYST
SOUTH DAKOTA PUBLIC UTILITIES COMMISSION
500 EAST CAPITOL
PIERRE SD 57501
harlan.best@state.sd.us

MR. STEPHEN B. ROWELL
ALLTEL
P.O. BOX 2177
LITTLE ROCK, AR 72202
stephen.b.rowell@alltel.com

MS LINDA GODFREY
VERIZON WIRELESS
2785 MITCHELL DRIVE MS 7-1
WALNUT CREEK CA 94598
Linda.godfrey@verizonwireless.com
DIANE C. BROWNING

SPRINT COMMUNICATIONS COMPANY
MAILSTOP: KSOPHN0212-2A411
6450 SPRINT PARKWAY
OVERLAND PARK, KS66251
diane.c.browning@sprint.com

MR DAVID A GERDES
ATTORNEY AT LAW
MAY ADAM GERDES & THOMPSON LLP
PO BOX 160
PIERRE SD 57501-0160
dag@magt.com

MR TALBOT J WIECZOREK
ATTORNEY AT LAW
GUNDERSON PALMER GOODSSELL & NELSON
PO BOX 8045
RAPID CITY SD 57709-8045
tjw@gpgnlaw.com

MR RICHARD D COIT
EXECUTIVE DIRECTOR AND GENERAL COUNSEL
SDTA
PO BOX 57
PIERRE SD 57501-0057
richcoit@sdaonline.com

MR. DENNIS DUNCAN
ATTORNEY AT LAW
ZIMMER DUNCAN AND COLE
PO BOX 550
PARKER SD 57053
dlduncan@zdcclaw.com

MR PHILIP SCHENKENBERG
ATTORNEY AT LAW
BRIGGS AND MORGAN P.A.
80 SOUTH EIGHTH STREET
2200 IDS CENTER
MINNEAPOLIS MN 55402

pschenkenberg@briggs.com

MR BRETT M KOENECKE
ATTORNEY AT LAW
MAY ADAM GERDES & THOMPSON LLP
PO BOX 160
PIERRE SD 57501-0160
koenecke@magt.com

/s/ Mary J. Sisak