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**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

THE PUBLIC UTILITIES COMMISSION

OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF THE APPLICATION
OF SPRINT COMMUNICATIONS COMPANY L.P. TC06-178
FOR AUTHORITY TO PROVIDE LOCAL EXCHANGE
SERVICES IN CERTAIN RURAL AREAS SERVED BY
BROOKINGS MUNICIPAL UTILITIES D/B/A
SWIFTEL COMMUNICATIONS

IN THE MATTER OF THE APPLICATION OF MCC TC06-188
TELEPHONY OF THE MIDWEST, INC. D/B/A
MEDIACOM FOR A CERTIFICATE OF AUTHORITY TO
PROVIDE INTEREXCHANGE AND LOCAL EXCHANGE
SERVICES IN THE BROOKINGS EXCHANGE

ORIGINAL

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Transcript of Proceedings (Continuation)
August 12, 2008

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BEFORE THE PUBLIC UTILITIES COMMISSION,
GARY HANSON, CHAIRMAN
STEVE KOLBECK, VICE CHAIRMAN
DUSTY JOHNSON, COMMISSIONER

COMMISSION STAFF
Rolayne Ailts Wiest
John Smith
Kara Semmler
Karen Cremer
Greg Rislov
Terri LaBrie Baker
Dave Jacobson
Bob Knadle
Brian Rounds
Deb Gregg
Nathan Solem
Jon Thurber
Stacy Splittstoesser

APPEARANCES

Talbot Wierzbicki (by telephone)
Mary Sisk (by telephone)
Brett K...

PRECISION REPORTING

Cheri Wittler, RPR, CRR



1 TRANSCRIPT OF PROCEEDINGS, held in the above-entitled
2 matter, at the Visitor's Center, 650 East Capitol Avenue,
3 Pierre, South Dakota, on the 12th day of August 2008, commencing
4 at 9:30 a.m.

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1 CHAIRMAN HANSON: TC06-178, which was consolidated
2 with TC06-188, and the questions before the Commission are shall
3 the Commission grant the Motions to Compel?

4 And we are back on I believe items 1 and 2.
5 Ms. Wiest.

6 MS. AILTS WIEST: These are Swiftel's Motions to
7 Compel. The parties or some of the parties have filed some
8 written comments on this. So at this time I guess I would just
9 ask if the parties had anything further to add. And we can
10 start with Ms. Sisak.

11 And before we start that, I guess the first question
12 should be whether we need to go into confidential session. Do
13 the parties have any comments on that?

14 Ms. Sisak.

15 MS. SISAK: I don't have any comment on whether we
16 need to go into confidential session.

17 MS. AILTS WIEST: Mr. Koenecke.

18 MR. KOENECKE: Brett Koenecke for MCC. It would be my
19 position that the matters we're going to discuss are
20 confidential.

21 MS. AILTS WIEST: I believe the matters certainly can
22 go into confidential matters so I would suggest that the
23 Commission go into confidential session.

24 CHAIRMAN HANSON: All right. The Commission will go
25 into executive session with confidential session and, Ms. Sisak,

1 were you able to hear Mr. Koenecke when he was speaking?

2 MS. SISAK: Yes.

3 CHAIRMAN HANSON: Thank you. Please turn the web off.

4 (Discussion off the record)

5 (The following proceedings are confidential)

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1 MS. AXTHELM: We are back on the web.

2 CHAIRMAN HANSON: We are back on, and the Commission
3 meeting will resume for TC06-178 and 188 on the addendum part of
4 our agenda. We are considering items that -- and Motions to
5 Compel.

6 Are there motions by the Commission or questions at
7 this juncture?

8 COMMISSIONER KOLBECK: Well, I've got four of them
9 that I'm in agreement with. The other four I'd like to hear the
10 other Commissioners' -- maybe why I'm in agreement. But I'll
11 start with the four that I feel are kind of cut and dried.

12 So in TC06-178 and TC06-188 in the argument to support
13 the redacted material sought by Swiftel confidential item 4,
14 page 25, MFN, termination rights, I motion to deny the Motion to
15 Compel.

16 Item 5, page 43, termination, I motion to deny the
17 Motion to Compel.

18 CHAIRMAN HANSON: Excuse me. Which page was that?

19 COMMISSIONER KOLBECK: Page 43. Termination. On
20 page 44, termination for convenience, I motion to deny the
21 Motion to Compel.

22 CHAIRMAN HANSON: Is that item 6?

23 COMMISSIONER KOLBECK: Item 6. Yeah. And item 8,
24 Appendix 5, service level agreements, I motion to grant the
25 Motion to Compel. I'll start with those four.

1 CHAIRMAN HANSON: Discussion on that motion?

2 COMMISSIONER JOHNSON: I love it.

3 CHAIRMAN HANSON: I'll call the vote then.

4 Commissioner Johnson.

5 COMMISSIONER JOHNSON: Aye.

6 CHAIRMAN HANSON: Commissioner Kolbeck.

7 COMMISSIONER KOLBECK: Aye.

8 CHAIRMAN HANSON: Hanson votes aye. Motion carries.

9 Commissioner Kolbeck, did you have anything further to --

10 COMMISSIONER KOLBECK: Well, I'll see if another
11 Commissioner has another motion on the other four to see where
12 that lies.

13 CHAIRMAN HANSON: I do not have page numbers, however.
14 Perhaps you can help me with that. Items 1 and 2 in the Swiftel
15 brief and item 1 in the Sprint brief is on page 1, I would move
16 to deny that motion. Is there discussion?

17 Commissioner Johnson.

18 COMMISSIONER JOHNSON: I would vote aye.

19 CHAIRMAN HANSON: Commissioner Kolbeck.

20 COMMISSIONER KOLBECK: I would vote aye on that.

21 CHAIRMAN HANSON: Commissioner Hanson. Motion
22 carries. Item 3 I would -- excuse me. Page 20, item 3, page 20
23 I move to deny the Motion to Compel. Is there discussion?

24 Commissioner Johnson.

25 COMMISSIONER JOHNSON: Aye.

1 CHAIRMAN HANSON: Commissioner Hanson votes aye.

2 Excuse me.

3 Commissioner Kolbeck.

4 COMMISSIONER KOLBECK: I'll vote aye.

5 CHAIRMAN HANSON: Motion carries. Item 7, which is on
6 page --

7 COMMISSIONER JOHNSON: Appendix 1.

8 CHAIRMAN HANSON: Appendix 1, I move to grant the
9 Motion to Compel. Discussion?

10 Commissioner Johnson.

11 COMMISSIONER JOHNSON: Aye. And that is presumably
12 only as it has to do with service territories that Swiftel
13 served as the ILEC.

14 CHAIRMAN HANSON: Thank you for pointing that out,
15 yes.

16 Commissioner Kolbeck.

17 COMMISSIONER KOLBECK: I'm going to vote no on that
18 one.

19 CHAIRMAN HANSON: Commissioner Hanson votes yes.
20 Motion carries. Item number 8 -- 7. Okay. We did that item 8
21 with Commissioner Kolbeck's.

22 CHAIRMAN HANSON: I thought there was one more.

23 COMMISSIONER JOHNSON: I had -- and we may need to
24 double-check, but I had believed Commissioner Hanson's first
25 motion with regard to Section 1, the term, I didn't hear him

1 mention as well Section 2 dealing with page 2, the same terms
2 and conditions.

3 CHAIRMAN HANSON: I stated items 1 and 2, although I
4 may not have stated the page number.

5 COMMISSIONER JOHNSON: Okay. Got you. And I probably
6 heard section 2 and heard page 2 in my mind, but regardless I'm
7 fine with your motion and I would --

8 CHAIRMAN HANSON: Okay. Great. And are there any
9 other motions to be made on this?

10 If not, does that complete the two dockets, or is
11 there more on those dockets?

12 MS. AILTS WIEST: No. That completes it. Thank you.

13 MS. SISAK: May I ask a question?

14 CHAIRMAN HANSON: Yes, Ms. Sisak. Go ahead.

15 MS. SISAK: In light of the fact that this hearing is
16 scheduled for next week, can there be a date when the
17 information must be provided?

18 MS. AILTS WIEST: Mr. Koenecke, is there any reason it
19 can't be provided today?

20 MR. KOENECKE: I presume, Ms. Wiest, in response to
21 your question and Ms. Sisak's question that this will have to be
22 run through some discussion at both my company -- or my client's
23 headquarters and Mr. Wiczorek's.

24 I would think that perhaps Thursday noon is a more
25 reasonable deadline to get those things accomplished.

1 Unfortunately, we're just still in that summertime vacation
2 season where these things are more difficult than they would be
3 in November or March, for example.

4 COMMISSIONER JOHNSON: Well, what day of the week next
5 week is the hearing to begin?

6 MS. AILTS WIEST: Wednesday.

7 COMMISSIONER JOHNSON: Wednesday. Ms. Sisak, your
8 thoughts on Thursday noon?

9 MS. SISAK: Well, the other thing -- point that I
10 wanted to bring up was when the parties had agreed to a
11 procedural schedule there was a contingency that if information
12 was required to be provided, we would have an opportunity to
13 file testimony.

14 And that means if they don't provide the information
15 until Thursday noon, it would be unlikely that we would be able
16 to evaluate it to determine whether or not we need to file
17 testimony until probably right before the hearing.

18 So if that's acceptable to everyone, then Thursday
19 noon is acceptable to us.

20 CHAIRMAN HANSON: Staff, do you have any
21 recommendations? Do we need to take some time on this?

22 MS. SEMMLER: Ms. Sisak, how is it -- I'm sorry. I
23 was whispering to Ms. Wiest trying to come up with a resolution,
24 and I missed how you would anticipate dealing with presentation
25 of testimony.

1 As I understand it, the testimony you'd be allowed to
2 introduce is restricted to these very items that now your motion
3 was granted; correct?

4 MS. SISAK: That's my understanding.

5 MS. SEMMLER: And did you still want to prefile, or
6 could we do in-person testimony regarding these particular items
7 at the hearing?

8 MS. SISAK: Well, I mean, if in-person is fine, that's
9 fine with Swiftel. I was just saying that if we needed to
10 prefile, if we did not receive the information until Thursday
11 noon, it would be hard to prefile before -- right before the
12 hearing. But if there is no need for us to prefile, that's
13 acceptable to Swiftel as well.

14 MS. SEMMLER: What do the other parties think? Any
15 comments?

16 MR. WIECZOREK: This is Talbot Wieczorek on behalf of
17 Sprint. Given the limited amount that the testimony would just
18 be restricted to these items, I think a short prefile in the day
19 before the hearing would be acceptable to us. I don't
20 anticipate it being -- given what's being turned over here and
21 it being restricted to those issues to being very lengthy.

22 MS. SEMMLER: That would be fine with staff. I agree
23 it will be very limited testimony.

24 MS. SISAK: If I understand the comment, that would be
25 we would file testimony by the 19th?

1 CHAIRMAN HANSON: Yes.

2 MS. SISAK: That's acceptable to Swiftel.

3 CHAIRMAN HANSON: Does that work for everyone?
4 Everyone's nodding here.

5 MR. KOENECKE: Yes, Commissioner. This is
6 Brett Koenecke. That's acceptable. Thank you.

7 MS. SISAK: And I just have one final question. I
8 would like to get a copy of the transcript of this proceeding.
9 Is there some kind of formal process I need to do to do that?

10 MS. AILTS WIEST: You just need to contact the court
11 reporter.

12 CHAIRMAN HANSON: I don't believe there's a formal
13 process.

14 MS. SISAK: Is that Ms. Wittler?

15 MS. AILTS WIEST: Cheri Wittler, yes.

16 MS. SISAK: Thank you.

17 CHAIRMAN HANSON: Any further questions at this time?
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STATE OF SOUTH DAKOTA)

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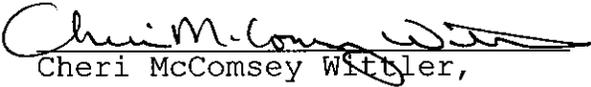
CERTIFICATE

COUNTY OF HUGHES)

I, CHERI MCCOMSEY WITTLER, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public in and for the State of South Dakota:

DO HEREBY CERTIFY that as the duly-appointed shorthand reporter, I took in shorthand the proceedings had in the above-entitled matter on the 12th day of August, 2008, and that the attached is a true and correct transcription of the proceedings so taken.

Dated at Pierre, South Dakota this 13th day of August, 2008.



Cheri McComsey Wittler,
Notary Public and
Registered Professional Reporter
Certified Realtime Reporter