

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE APPLICATION OF)	ORDER GRANTING MOTION
MCC TELEPHONY OF THE MIDWEST, INC.)	TO COMPEL IN PART;
D/B/A MEDIACOM FOR A CERTIFICATE OF)	ORDER AMENDING
AUTHORITY TO PROVIDE LOCAL EXCHANGE)	PROCEDURAL SCHEDULE;
SERVICES IN THE BROOKINGS EXCHANGE)	AND ORDER GRANTING
		MOTION FOR EXTENSION
		OF TIME
		TC06-188

On November 6, 2006, the Public Utilities Commission (Commission) received an Application for Certificate of Authority from MCC Telephony of the Midwest, Inc. d/b/a Mediacom (MCC) to provide facilities-based and resold basic local exchange services. The services proposed will include non-switched, switched local services and special access services in the Brookings rural exchange area.

On November 9, 2006, the Commission electronically transmitted notice of the filing and the intervention deadline of November 27, 2006, to interested individuals and entities. Brookings Municipal Utilities d/b/a Swiftel Communications (Swiftel) filed to intervene on November 21, 2006. South Dakota Telecommunications Association (SDTA) filed to intervene on November 22, 2006. Swiftel and SDTA were granted intervention. On March 30, 2007, the Commission issued an Order Setting Procedural Schedule; Order for and Notice of Hearing scheduling the hearing to be held on June 29, 2007. On May 21, 2007, the Commission received a Joint Motion for Delay of Hearing.

At its May 22, 2007, meeting, the Commission considered the Joint Motion for Delay of Hearing. Commission Staff recommended approval. The Commission unanimously voted to grant the Joint Motion for Delay of Hearing. On August 3, 2007, the Commission received a Joint Motion for Delay of Hearing.

At its August 7, 2007, meeting, the Commission considered the Joint Motion for Delay of Hearing. Commission Staff recommended approval. The Commission unanimously voted to grant the Joint Motion for Delay of Hearing. On January 11, 2008, the Commission received a Joint Motion for Delay of Hearing.

At its January 29, 2008, meeting, the Commission considered the Joint Motion for Delay of Hearing. Commission Staff recommended approval. The Commission unanimously voted to grant the Joint Motion for Delay of Hearing. On May 13, 2008, the Commission received a Motion to Request the Commission Enter a Protective Order.

At its May 20, 2008, meeting, the Commission considered the Motion to Request the Commission Enter a Protective Order. All parties agreed to entry of the Order. Commission Staff recommended approval. The Commission unanimously voted to grant the Motion to Request the Commission Enter a Protective Order.

The parties have agreed to pre-file testimony according to the following schedule:

<u>Event</u>	<u>Date</u>
Simultaneous Direct Testimony Due	July 9, 2008
Simultaneous Reply Testimony Due	August 4, 2008

The Parties agreed Swiftel may present new arguments that are connected to discovery it obtains through a Motion to Compel, or is otherwise produced late, in its Reply Testimony due August 4, 2008.

The Parties also agreed MCC may then reply specifically to the new Swiftel arguments by August 13, 2008.

Pursuant to an Order for and Notice of Hearing dated May 28, 2008, the hearing in this matter has been scheduled to begin at 9:00 A.M. on August 20, 2008, and continuing at 8:00 A.M. on August 21-22, 2008, in the Visitors Center, 650 East Capitol, Pierre, South Dakota.

On June 26, 2008, Swiftel filed a Motion to Compel Responses and Production of Documents Addressed to Mediacom as Propounded by Brookings Municipal Utilities d/b/a Swiftel Communications. On July 9, 2008, MCC filed a Motion for Extension of Time to File Additional Direct Testimony. On July 10, 2008, MCC filed its response to the Motion to Compel.

At its July 14, 2008, ad hoc meeting, the Commission considered the motions. The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31, specifically SDCL 49-31-69 through 49-31-75, inclusive. For Discovery Requests 2, 3, and 4, the parties agreed that Sprint would provide MCC with the redacted agreement that was entered into between Sprint and MCC and provided in another docket. MCC would then provide that redacted agreement to Swiftel. As in Docket TC06-178, Swiftel sought access to certain redacted portions. The Commission unanimously voted that MCC will provide a copy of the redacted agreement to Swiftel; Swiftel will amend or file a new motion regarding access to certain redacted provisions of the agreement; the Commission will hear the amended or new motion at its July 29, 2008 meeting; if any redacted provisions are required to be provided, MCC will provide those provisions by July 30, 2008; and the reply testimony due date of August 4, 2008 will be moved to August 6, 2008. For Discovery Request 30, the Commission voted unanimously to require MCC to respond. For Discovery Requests 7, 8, 13, 14, 15, and 16, Swiftel noted that MCC stated in its response that it would provide responses so Swiftel is not pursuing those requests at this time. For Discovery Request 5, Swiftel stated that it was not pursuing that request. For Discovery

Request 6, the Commission voted unanimously to grant the motion to compel. For Discovery Request 9, the Commission voted unanimously to grant the motion to compel but limited it to the Brookings area and only to the extent that MCC has the information. For Discovery Request 10, Swiftel withdrew its request. For Discovery Requests 11 and 12, Swiftel stated it was not pursuing those requests. For Discovery requests 19, 20, 21, 22, 23, and 24, the Commission voted unanimously to grant the motion to compel but only to the extent MCC has already formulated a plan. For Discovery Request 25, Swiftel stated it was not pursuing this request. For Discovery Request 28, MCC agreed to provide responses. For Discovery Request 32, Swiftel stated it was not pursuing this request. For Request for Production of Document 1, 4, and 5, Swiftel said that since MCC had agreed to produce the document, no action was necessary. For Request for Production of Document 7, MCC stated that it will reevaluate its answer and provide an answer to Swiftel based on what was decided during this meeting. For Request for Production of Documents 3 and 8, Swiftel withdrew its requests.

With regard to MCC's Motion for Extension of Time to File Additional Direct Testimony, no one objected to the motion. The Commission voted unanimously to grant the motion.

It is therefore

ORDERED, that Swiftel's Motion to Compel is granted in part; and it is

FURTHER ORDERED, that the procedural schedule is amended as set forth above; and it is

FURTHER ORDERED, that MCC's Motion for Extension of Time to File Additional Direct Testimony is granted.

Dated at Pierre, South Dakota, this 18th day of July, 2008.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.
By: <u><i>Arianna Jantzen</i></u>
Date: <u>7/18/08</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Steve Kolbeck
STEVE KOLBECK, Commissioner

Dustin M. Johnson
DUSTIN M. JOHNSON, Commissioner AG