
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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

Docket No. TC06-176

**OPPOSITION TO REQUEST TO ALLOW MULTIPLE ATTORNEYS TO
CROSS EXAMINE WITNESSES**

Brookings Municipal Utilities d/b/a Swiftel Communications (Swiftel), hereby opposes the request filed by Sprint Communications Company, L.P. (Sprint) to allow multiple attorneys to cross-examine Swiftel's witnesses. As demonstrated herein, Sprint's request should be denied.

Sprint has filed a broad request to allow an unspecified number of attorneys cross-examine any and all witnesses presented by Swiftel in this case. Sprint's alleged need for this request is that its attorneys "concentrated on specific technical issues in this matter" and that "[a]llowing the attorney with the working knowledge on each specific issue to cross-examine Respondent's expert witnesses regarding the particular issues will provide

for the most efficient use of the Commission's time and allow the evidence to be presented in a clear and concise manner."¹

As an initial matter, the fact that SDCL 15-14-15 states that "[u]nless by leave of court, one counsel only on each side shall be entitled to examine or cross-examine a witness" demonstrates that this procedure has been determined to be the most efficient and fair way to proceed at hearing. Sprint's unsupported statements and open-ended request are not sufficient to overcome the rule. In this regard, Swiftel notes that Sprint has not identified the witnesses to be cross-examined by more than one attorney or the number of attorneys who will be cross-examining any one witness. Nor has Sprint identified with specificity the portions of testimony for a witness that requires a different attorney for cross examination. Rather than promote order in the hearing, Sprint's broad, open-ended request will certainly cause delays and create a "free-for-all" atmosphere.

Further, Sprint's claim that more than one attorney needs to cross-examine Swiftel witnesses because of technical issues is nonsense. Swiftel has presented four witnesses, only two of whom, Mr. Rasmussen and Mr. Thompson, present what are normally considered "technical" issues. Mr. Rasmussen's testimony presented the cost study, which was addressed by Sprint Witness Farrar. Mr. Thompson's testimony addressed technical aspects of telephony. Mr. Thompson's rebuttal testimony only addresses testimony of Sprint Witness Burt.

Of Swiftel's other witnesses, Mr. Adkins, Technical and Network Operations Manager for Swiftel, and Ms. Shotwell, it is not clear if Sprint considers their testimony to be "technical" in nature. In any event, Sprint has filed to strike Ms. Shotwell's rebuttal

¹ Brief in Support of Sprint's Request to Commission to Allow Multiple Attorney's to Cross-Examine Respondent's Witnesses (Brief) at 1-2.

testimony, in part, because it is legal and regulatory argument. Surely, all attorneys are qualified to cross-examine a witness on alleged legal and regulatory issues. And, Mr. Adkin's rebuttal testimony only addresses the testimony of Mr. Burt.

Sprint simply has provided no support, and there is no support, to justify allowing the unfair procedure that Sprint seeks. Accordingly, Sprint's request should be denied.

Respectfully submitted,

BROOKINGS MUNICIPAL UTILITIES
D/B/A/ SWIFTEL COMMUNICATIONS

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