

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

IN THE MATTER OF THE)	TC06-188
APPLICATION OF MCC TELEPHONY)	
OF THE MIDWEST, INC., D/B/A)	
MEDIACOM FOR A CERTIFICATE)	RESPONSE TO MOTION TO
OF AUTHORITY TO PROVIDE)	COMPEL RESPONSES AND
LOCAL EXCHANGE SERVICE IN)	PRODUCTION OF DOCUMENTS
THE BROOKINGS EXCHANGE)	

COMES NOW MCC Telephony of the Midwest, Inc., d/b/a Mediacom, and responds to the Motion of Brookings Municipal Utilities d/b/a Swiftel Communications. MCC Telephony of the Midwest, Inc., d/b/a Mediacom (MCC) hereby provides its response to the June 26th Motion of Swiftel.

Background

Mediacom, an affiliate of MCC, is currently doing business in Brookings, South Dakota. Mediacom provides video and data services to a number of subscribers in Brookings. MCC seeks to introduce competitive local exchange services in Brookings via wireline to residents of Brookings who don't currently have any competing wireline telephone service. Brookings Municipal Utilities, doing business as Swiftel Communications has intervened in the applications of MCC and its vendor Sprint for certificates of authority to provide local exchange service in the Swiftel territory and has filed a petition with the Commission seeking to limit its duty to provide local number portability to competing carriers. Swiftel attempted to intervene in Mediacom's initial certificate of authority application and that attempted intervention was rejected. Mediacom avers that the City of Brookings, Brookings Municipal Utilities and Swiftel

Communications seek to eliminate or at least severely limit the ability of competing telecommunications carriers to compete in Brookings.

Response

Swiftel has complained that MCC failed to answer the discovery requests of Swiftel in a number of respects. MCC makes the following arguments in response to the Swiftel motion:

1. As of this filing, MCC has supplemented its responses as to a number of the discovery requests made by Swiftel. Mediacom will provide updated answers to the discovery requests. Those supplements included updated answers and provision of documents for questions 7, 8, 13, 14, 15, and 16. Furthermore, MCC will attach for Swiftel's benefit, a spreadsheet which is responsive to questions 13 and 14. MCC also will attach area maps of Brookings which were generated in the past responding to Commission staff requests which are responsive to question 8. Those answers represent the full extent of the responses which Mediacom is prepared to provide to Swiftel, absent a Commission order otherwise.

2. Despite usual Commission practice regarding data requests and the treatment of responses thereto as attributable to the company despite the lack of an oath, Mediacom, will provide the signature of Calvin Craib (who will be a witness at the hearing upcoming on this matter) along with an appropriate acknowledgement of his signature. The signature and acknowledgement are attributable to all of the answers provided whether provided previously or in the supplement.. While Swiftel's argument on that point hardly rises to the level necessitating a motion to compel, MCC will provide what Swiftel seeks.

3. Swiftel complains that MCC didn't provide information regarding the agreement between MCC and Sprint. Swiftel seeks the Commission's order requiring the details of the agreements between MCC and Sprint for purposes which are unclear to MCC and in any event

certainly not relevant. MCC's agreement with Sprint simply isn't relevant to MCC's proposed provision of services, and simply isn't relevant to the proceedings at hand. The joint provision of services by MCC and Sprint has been approved in many states, and more importantly, has been approved already by this Commission. The agreement has no bearing on whether and how MCC will be allowed entry into the Brookings exchange.

4. At page 9, Swiftel notes that SDCL § 49-31-69 states that an application for an amended certificate is subject to the same requirements as an application for an initial certificate and also correctly notes that the Commission denied intervention to Swiftel in the initial MCC certificate of authority proceeding. Swiftel cries that the Commission's failure to grant its motion to compel would effectively deny Swiftel from participating in "any" (this) MCC certification proceeding and would "deny Swiftel a statutory right and effectively gut the rules and protections that apply to rural service territories." See Swiftel Motion at page 10.

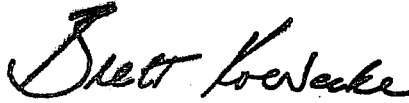
Taken to its logical end, Swiftel advocates for an absurdity, in its interpretation of the statutes. This Commission has already found that MCC possesses the requisite qualifications to operate telephone service in South Dakota and to do so through its relationship with Sprint. Swiftel seeks to re-litigate that determination in the instant proceeding. Does Swiftel really plan to contend that the Commission erred previously and is now going to find differently and determine that MCC possesses the requisite expertise in some exchanges in South Dakota but not theirs? MCC thinks not. That would be absurd. It is clear that Swiftel seeks to attempt to focus this hearing on ANYTHING other than its efforts to resist competition in its marketplace and all of the benefits that competition can provide to the residents of Brookings.

This hearing should and will focus on the second sentence of SDCL 49-31-71. MCC is past the first hurdle, "sufficient technical, financial, and managerial capabilities." This

Commission has already so acknowledged. MCC resists any attempt to fully re-litigate those aspects found in the first sentence of SDCL § 49-31-71 whether in discovery or elsewhere.

Dated this 10th day of July, 2008.

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CERTIFICATE OF SERVICE

I hereby certify that the above Response to Motion to Compel Responses and Production of Documents was served upon the following on the 10th day of July, 2008 via electronic mail at their last known email addresses, to-wit:

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