

**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
MIDCONTINENT COMMUNICATIONS (MIDCONTINENT)**

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, Midcontinent Communications (Midcontinent) filed a Petition to Intervene. Midcontinent states that it is a "certificated telecommunications carrier under the jurisdiction of the Commission, providing competitive local exchange service and long distance service throughout the state in both rural and non-rural local exchanges." Midcontinent Petition at 1, para. 1. Midcontinent alleges that as "a local exchange carrier any action by the Commission dealing with local number portability, if too broadly fashioned, will potentially have a direct financial

impact upon Midcontinent and its ability to do business in the state.” Midcontinent
Petition at 1, para. 3

3. Swiftel objects to allowing Midcontinent 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 Midcontinent 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 carriers and interconnected VoIP providers. Midcontinent states that it is a telecommunications carrier

providing competitive local exchange service and long distance service. On its face, therefore, Swiftel's Petition does not impact or affect any obligation to provide LNP to Midcontinent as a non-wireless telecommunications carrier. Accordingly, Midcontinent 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, Midcontinent 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 Midcontinent should not be allowed to intervene.

WHEREFORE, it is requested that the Petition to Intervene of Midcontinent 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
Fax (202) 828-5569

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 MIDCONTINENT COMMUNICATIONS 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@sdtasonline.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

