

BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Petition)
of Interstate Telecommunications)
Cooperative, Inc.)
for Suspension or Modification) Docket No. TC08-024
of Section 251(b)(2) of the)
Communications Act of 1934,)
as amended)

**OPPOSITION OF INTERSTATE TELECOMMUNICATIONS
COOPERATIVE, INC. TO PETITION TO INTERVENE FILED BY
SPRINT COMMUNICATIONS COMPANY, L.P.**

1. On February 8, 2008, ITC Telecommunications Cooperative, Inc. (ITC) filed with the Commission a Petition for Suspension or Modification of its obligations as a local exchange carrier in connection with the provisioning of intermodal (wireline to wireless) local number portability (LNP) and LNP to interconnected Voice over Internet Protocol (VoIP) providers. ITC has requested immediate suspension of these obligations.

2. On February 29, 2008, Sprint Communications Company, L.P. (Sprint) filed a Petition to Intervene. Sprint states that it is a “telecommunications carrier providing interexchange services in South Dakota” and that it holds a certificate of authority “authorizing Sprint to offer local exchange telecommunications services statewide throughout South Dakota.” Sprint Petition at page 1, para. 1. Sprint further states that it filed a request to provide competitive local exchange service in ITC’s service area, which is pending before the Commission in Docket TC06-180. Sprint Petition at page 2, para.

4. Sprint also states that it filed a Petition for Arbitration with the Commission in connection with an interconnection agreement between Sprint and ITC, which is pending in Docket TC06-175.

3. Sprint argues that pursuant to its pending arbitration proceeding with ITC and its pending certificate of authority request, Sprint will provision jointly with Mediacom “a fixed interconnected VoIP service.” Sprint Petition at page 2, para. 5. Sprint states that it is “concerned that the suspension sought by ITC is intended to apply to the business model that Sprint will use to provide services to South Dakota customers.” Sprint Petition at page 2, para. 6. Sprint further states that “[t]here is no justification to treat LNP for the jointly provided services that Sprint will utilize any differently than wireline to wireline LNP merely because the service to the end user is an interconnected VoIP service.” Sprint Petition at page 3, para. 6. Sprint alleges that because of these concerns, it is a necessary party to the proceeding to protect its rights in its arbitration and certificate of authority proceedings. Finally, Sprint states that its “ability to operate and provide services either as a CLEC and an IXC would all be impacted adversely should ITC’s requests for relief be granted.” Sprint Petition at page 3, para. 8.

4. ITC objects to allowing Sprint to intervene. In its Order dated February 6, 2007, in Docket 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 case is set forth in the statutes of the State of South Dakota as well as the Administrative Rules of South Dakota.

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 the agency’s order made upon the hearing may become a party to the hearing by intervention, if timely application therefore is made.

The South Dakota Public Utilities Commission has adopted Administrative Rules that generally address petitions to intervene. ARSD § 20:10:01:15:05 sets forth what a Petitioner filing for intervention must show:

That the petitioner is specifically deemed by statute to be interested in the matter involved, that the petitioner is specially declared by statute to be an interested party to the proceeding, 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, Sprint has failed to meet the standards to be allowed to intervene.

5. ITC's Petition, on its face, is limited to its obligation in connection with the provisioning of LNP to wireless telecommunications carriers and interconnected VoIP providers. Sprint states that it is a telecommunications carrier providing competitive local exchange service and long distance service and in its pending certification petition, Sprint requests certification to provide competitive local exchange service in ITC's service area. Accordingly, Sprint alleges that it is a wireline telecommunications carrier. On its face, therefore, ITC's Petition does not impact or affect any obligation to provide LNP to Sprint as a non-wireless telecommunications carrier. Thus, Sprint 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."

6. Further, Sprint 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, Sprint should not be allowed to intervene.

7. If, however, Sprint is now abandoning its claim to be a telecommunications carrier on the basis that it provides an interconnected VoIP service, Sprint should make that clear.

WHEREFORE, ITC respectfully requests that the Petition to Intervene of Sprint be denied.

**INTERSTATE TELECOMMUNICATIONS
COOPERATIVE, INC.**



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