

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

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IN THE MATTER OF PETITIONS FOR
SUSPENSION OR MODIFICATION OF
47 U.S.C. SECTION 251(B)(2) OF THE
COMMUNICATIONS ACT OF 1934 AS AMENDED
IN DOCKETS TC04-038, TC04-044, TC04-045,
TC04-046, TC04-047, TC04-048, TC04-049,
TC04-050, TC04-052, TC04-054, TC04-055,
TC04-056, TC04-060, AND TC04-061
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Transcript of Proceedings
December 28, 2004

ORIGINAL

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BEFORE THE PUBLIC UTILITIES COMMISSION,
ROBERT SAHR, CHAIRMAN
GARY HANSON, VICE CHAIRMAN
JIM BURG, COMMISSIONER

COMMISSION STAFF
Rolayne Ailts Wiest
John Smith
Karen Cremer
Sara Harens
Greg Rislov
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Keith Senger
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**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Reported By Cheri McComsey Wittler, RPR

PRECISION REPORTING
L I M I T E D

APPEARANCES BY TELEPHONE

- Bill Heaston
- Brad Moody
- Suzan Stewart
- Denny Law
- Colleen Sevold
- Talbot Wieczsorek
- Dana Palmer
- Mark Ayotte
- Faye Jandreau
- Doug Eidahl
- Marcia Huber
- Dan Daly
- Bruce Biewald
- Jerry Reisenauer
- Tom Welk
- Tim Goodwin

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TRANSCRIPT OF PROCEEDINGS, held in the
 above-entitled matter, at the South Dakota State
 Capitol, Room 412, 500 East Capitol Avenue, Pierre,
 South Dakota, on the 28th day of December 2004,
 commencing at 9:30 a.m.

1 CHAIRMAN SAHR: In the matter of the
2 petitions for suspension or modification of
3 47 U.S.C. Section 251(b)(2) of the Communications
4 Act of 1934 as amended in Dockets TC04-038, 044,
5 045, 046, 047, 048, 049, 050, 052, 054, 055, 056,
6 060, and 061.

7 And the question today is shall the Commission
8 grant Western Wireless's petitions to reconsider
9 Final Decision and Order.

10 The parties have had an opportunity to make
11 oral arguments in this matter as well as final --
12 and at this point in time I would just see if the
13 Commissioners or advisers have any additional
14 questions.

15 MR. SMITH: I don't have a question,
16 but I have a comment. I just wanted to remind the
17 Commission of the information that I provided at
18 the last meeting, which was that there were a
19 couple of paragraphs that I inadvertently deleted
20 somehow in getting the orders printed out, and I
21 would ask that the Commission correct those typing
22 errors that I made.

23 COMMISSIONER BURG: So that nobody
24 thinks we have an incompetent attorney, I
25 would make the motion.

1 MR. SMITH: I freely admit my typing
2 skills are not very good.

3 CHAIRMAN SAHR: Should we clean that
4 language up?

5 MR. SMITH: I would. Those were
6 supposed to be in there.

7 CHAIRMAN SAHR: Let's do that. And
8 I'm going to apologize. This is a little bit
9 lengthy, and with the other lengthy motions we had
10 this morning, if anyone wants an actual hardcopy of
11 those or an e-mail copy, we can handle those
12 requests so just call us on our 800 number,
13 (800) 332-1782, or if you are here in the building,
14 just stop by the office and we'll get you a copy of
15 those. I'm going to go ahead and read this, and
16 it's about a page long so my apologies for the
17 length.

18 I move that the Final Decision and Order in
19 TC04-054 in the matter of the petition of
20 Interstate Telecommunications Cooperative, Inc.
21 for suspension or modification of 47 U.S.C.
22 Section 252(b)(2) of the Communications Act of 1934
23 as amended be amended by deleting the word "both"
24 in the third sentence of the Finding of Fact 27 and
25 inserting the following Finding of Fact which was

1 inadvertently deleted from the Order prior to
2 issuance:

3 38A, We find that implementing LNP at this
4 time could cost ITC or its users as much as
5 61 cents per line per month excluding transport and
6 that the cost of transport if ultimately held to be
7 ITC's responsibility, could raise that monthly cost
8 substantially higher.

9 I further move that the Final Decision and
10 Order in TC04-060, In the matter of the petition of
11 Venture Communications Cooperative for suspension
12 or modification of 47 U.S.C. Section 251(b)(2) of
13 the Communications Act of 1934 as amended be
14 amended by deleting the word "both" in the third
15 sentence of Finding of Fact 17 and inserting the
16 following Finding of Fact which was inadvertently
17 deleted from the order prior to issuance:

18 29A, We find that implementing LNP at this
19 time could cost Venture or its users as much as
20 59 cents per line per month, excluding transport,
21 and that the costs of transport if ultimately held
22 to be Venture's responsibility, could raise that
23 monthly cost substantially higher.

24 I further move that the Final Decision and
25 Order in each of the following LNP suspension

1 dockets be amended by inserting the phrase "and
2 its/their customers" at the end of the sentence in
3 the specified paragraphs:

4 In TC04-038, Santel Communications
5 Cooperative, Inc., Finding 48 and Conclusion 9; in
6 TC04-044, Sioux Valley Telephone Company,
7 Finding 47 and Conclusion 9; in TC04-045, Golden
8 West Telecommunications Cooperative, Inc., Vivian
9 Telephone Company, and Kadoka Telephone Company,
10 Finding 47 and Conclusion 9; in TC04-046, Armour
11 Independent Telephone Company,
12 Bridgewater-Canistota Independent Telephone
13 Company, and Union Telephone Company, Finding 48
14 and Conclusion 9; in TC04-047, Brookings Municipal
15 Utilities doing business as Swiftel Communications,
16 Finding 47 and Conclusion 9; in TC04-048, Beresford
17 Municipal Telephone Company, Finding 46 and
18 Conclusion 9; in TC04-049, McCook Cooperative
19 Telephone Company, Finding 47 and Conclusion 9; in
20 TC04-050, Valley Telecommunications Cooperative
21 Association, Inc., Finding 49 and Conclusion 9; in
22 TC04-052, Midstate Communications, Inc., Finding 47
23 and Conclusion 9; in TC04-054, Interstate
24 Telecommunications Cooperative, Inc., Finding 56
25 and Conclusion 9; in TC04-055, Alliance

1 Communications Cooperative, Inc. and Splitrock
2 Properties, Inc., Finding 48 and Conclusion 9; in
3 TC04-056, RC Communications Inc. and Roberts County
4 Telephone Cooperative Association, Finding 47 and
5 Conclusion 9; in TC04-060, Venture Communications
6 Cooperative, Finding 47 and Conclusion 9; in
7 TC04-061, West River Cooperative Telephone Company,
8 Finding 48 and Conclusion 9.

9 And that ends the motions.

10 VICE CHAIR HANSON: Second.

11 COMMISSIONER BURG: I'll concur.

12 CHAIRMAN SAHR: And I should say,
13 John, I commend you for your excellent job, and
14 certainly considering the amount of paperwork, any
15 mistakes are completely understandable. So I'm
16 glad we got that cleaned up.

17 Now we do need to move to the overall
18 question, and that is shall the Commission grant
19 Western Wireless's petitions to reconsider Final
20 Decision and Order.

21 And do we have a Motion?

22 I will go ahead then and move that we deny the
23 Motion for reconsideration of the Final Decision
24 and Order. And I think one of the main reasons in
25 my mind is that we're looking at an original Order

1 or Orders that delayed review of this until
2 December 31, 2005. And a big part of that was the
3 hopes that we'd have some clarification from the
4 FCC or from the courts as to LNP obligations.
5 We've got some pending proceedings. We've got
6 cases on appeal. And I think we may get some
7 guidance before the end of 2005.

8 We also, I think, wanted to see the parties
9 move forward and try to determine if they could
10 come up with solutions to make LNP possible. And
11 I'm assuming that that type of analysis is going
12 forward and especially for the lower cost parties
13 to the case that they are aggressively looking at
14 trying to figure out ways to implement LNP without
15 a Commission Order having to require it at this
16 point in time.

17 And those factors really in my mind and with
18 the additional fact that we have an implementation
19 delay date that is -- and I only say this in terms
20 of the perspective of how long the case to
21 reconsider would take, is only a year out. I think
22 at this time it's appropriate to deny the request,
23 urge the parties to continue to move forward and
24 find solutions and, you know, acknowledge that in
25 most of these instances we're asking consumers to

1 bear a significant cost with the prospect of very
2 few ports.

3 VICE CHAIR HANSON: Second.

4 COMMISSIONER BURG: I concur. I
5 think looking and reviewing it again at this time
6 it's premature. I think we're going to have plenty
7 of opportunities to do that.
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1 STATE OF SOUTH DAKOTA)

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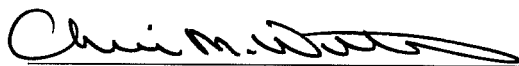
CERTIFICATE

3 COUNTY OF HUGHES)

4
5 I, CHERI MCCOMSEY WITTLER, a Registered
6 Professional Reporter and Notary Public in and for the
7 State of South Dakota:

8 DO HEREBY CERTIFY that as the duly-appointed
9 shorthand reporter, I took in shorthand the proceedings
10 had in the above-entitled matter on the 28th day of
11 December 2004, and that the attached is a true and
12 correct transcription of the proceedings so taken.

13 Dated at Pierre, South Dakota this 10th day
14 of January 2005.

15
16
17 

18 Cheri McComsey Wittler,
19 Notary Public and
20 Registered Professional Reporter

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