

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

IN THE MATTER OF THE PETITION OF)	FINAL DECISION AND
CHEYENNE RIVER SIOUX TRIBE TELEPHONE)	ORDER APPROVING AND
AUTHORITY FOR SUSPENSION OR)	INCORPORATING
MODIFICATION OF 47 U.S.C. § 251(B)(2) OF)	STIPULATION
THE COMMUNICATIONS ACT OF 1934 AS)	
AMENDED)	TC04-085

On April 23, 2004, Cheyenne River Sioux Tribe Telephone Authority (Cheyenne River) filed a petition pursuant to 47 U.S.C. § 251(f)(2) and SDCL 49-31-80 seeking suspension or modification of its requirement to implement local number portability (LNP) pursuant to 47 U.S.C. § 251(b)(2). On April 29, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of May 7, 2004, to interested individuals and entities. WWC License LLC d/b/a CellularOne (Western Wireless) filed to intervene on April 29, 2004, and the South Dakota Telecommunications Association (SDTA) filed to intervene on May 7, 2004. On May 13, 2004, the Commission issued (i) an order granting Cheyenne River's request for interim suspension of LNP obligations pending final decision pursuant to 47 U.S.C. § 251(f)(2) and SDCL 49-31-80 and granting intervention to Western Wireless and SDTA, (ii) a notice of intent to take judicial notice of the fact that Cheyenne River is a local exchange carrier serving less than two percent of the nation's subscriber lines installed in the aggregate nationwide and (iii) an order for and notice of hearing setting the multiple LNP cases for hearing on June 21 through July 2, 2004, and the company-specific hearing on Cheyenne River for June 30, 2004. On June 30, 2004, at the commencement of Cheyenne River's company-specific hearing, Cheyenne River advised the Commission that it had reached a settlement in principle with intervenors in this docket and requested a continuance of the hearing in Docket No. TC04-085 pending the filing of a written stipulation resolving the matter (Transcript, Vol. III, p. 1061 et seq.). The Commission granted Cheyenne River's request for continuance (Transcript for TC04-085, p. 1070).

On August 16, 2004, Cheyenne River filed a Stipulation signed by Cheyenne River and intervenor, Western Wireless (Stipulation). The matter was accordingly scheduled for stipulated disposition pursuant to SDCL 1-26-20 at the Commission's regular meeting on August 17, 2004. At the Commission's regular meeting on August 17, 2004, intervenor SDTA stated on the record that it had no objection to the Stipulation or to the Commission's disposition of the case pursuant to the Stipulation. Staff did not object to the Stipulation or the issuance of a dispositive order based thereon. The Commission thereupon voted unanimously to approve the Stipulation and enter a final decision in the docket incorporating its terms and closing the docket.

The Commission finds and concludes that it has jurisdiction to enter this order pursuant to SDCL 49-31-80, ARSD 20:10:32:39 and 47 U.S.C. § 251(f)(2) and SDCL 1-26-20. It is therefore

ORDERED, that the Stipulation attached hereto is approved in its entirety and is incorporated in this Order as if fully set forth herein; and it is further

ORDERED, that Cheyenne River's obligation to provide local number portability to requesting carriers pursuant to 47 U.S.C. § 251(b)(2) and 49-31-81 is modified consistent with the terms and conditions of the Stipulation and this Order; and it is further

ORDERED, that this Order shall constitute the final decision in this matter and upon the effective date hereof, Docket No. TC04-085 shall be closed.

PLEASE TAKE NOTICE that this Final Decision and Order was duly entered on the 26th day of August, 2004. Pursuant to SDCL 1-26-32, this Final Decision and Order will take effect 10 days after the date of receipt or failure to accept delivery of the decision by the parties. Pursuant to ARSD 20:10:01:30.01, an application for a rehearing or reconsideration may be made by filing a written petition therefor and ten copies with the Commission within 30 days from the date of issuance of this Final Decision and Order. Pursuant to SDCL 1-26-31, the parties have the right to appeal this Final Decision and Order to the appropriate Circuit Court by serving notice of appeal of this decision to the circuit court within thirty (30) days after the date of service of this Notice of Decision.

Dated at Pierre, South Dakota, this 26th day of August, 2004.

CERTIFICATE OF SERVICE	
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.	
By:	<u>Heidi Kelle</u>
Date:	<u>8/27/04</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Robert K. Sahr
ROBERT K. SAHR, Chairman

Gary Hanson
GARY HANSON, Commissioner