

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

IN THE MATTER OF THE PETITION OF))	ORDER DENYING PETITION
MIDSTATE COMMUNICATIONS, INC. FOR))	FOR RECONSIDERATION
SUSPENSION OR MODIFICATION OF 47))	
U.S.C. § 251(B)(2) OF THE COMMUNICATIONS))	TC04-052
ACT OF 1934 AS AMENDED))	

On March 12, 2004, Midstate Communications, Inc. (Midstate or Petitioner) filed a petition (Petition) pursuant to 47 U.S.C. Section 251(f)(2) and SDCL 49-31-80 seeking suspension or modification of its requirement to implement local number portability (LNP) pursuant to Section 251(b)(2) of the Telecommunications Act of 1996. From February 12 to April 23, 2004, twenty other rural local exchange carriers filed similar petitions seeking the same relief (two of these later-filed petitions, TC04-077 and TC04-085, were subsequently settled) (excluding settling petitioners, collectively, Petitioners). On April 19, 2004, the Commission issued an order granting Midstate's request for interim suspension of its obligation to implement LNP pending final decision pursuant to 47 U.S.C. Section 251(f)(2) of the Telecommunications Act of 1996 and SDCL 49-31-80 and granting intervention to WWC License LLC d/b/a CellularOne (WWC) and the South Dakota Telecommunications Association (SDTA).

On May 4, 2004, the Commission issued an Order for and Notice of Procedural Schedule and Hearing and of Intent to Take Judicial Notice. On June 16, 2004, the Commission issued a Supplemental Order for and Notice of Hearing establishing the schedule for presentation of general and company-specific testimony in this and the other LNP dockets. On June 21-July 1, 2004, a hearing was held on this matter and the other dockets in which Petitioners seek to suspend their obligations to implement LNP. The company-specific hearing on this matter was held on June 29, 2004. On July 13, 2004, the Commission issued an Order Establishing Briefing and Decision Schedule setting this matter for oral argument and decision on August 31, 2004. On August 31, 2004, the Commission heard oral arguments from the parties in this and the other LNP dockets. Following oral argument, the Commission voted unanimously to suspend Petitioners' obligations to implement intermodal local number portability pursuant to 47 U.S.C. §251(b)(2) and SDCL 49-31-81. A majority of the Commission voted to suspend Petitioners' intermodal LNP obligations until December 31, 2005. Commissioner Burg dissented from this portion of the decision, indicating that he supported an indefinite suspension of intermodal LNP obligations for all Petitioners requesting suspension of LNP obligations. The Commission voted unanimously to defer decision regarding intramodal number portability requirements without specifying whether the deferral applied to all LNP dockets or just those in which Midcontinent Communications had intervened and objected to suspending intramodal LNP requirements. On September 4, 2004, the Commission issued an order temporarily suspending all LNP requirements for all petitioners until September 30, 2004, in order to provide sufficient time for the finalization of the findings of fact and conclusions of law and to render a final decision regarding intramodal LNP. On September 22, 2004, the Commission voted unanimously to suspend intramodal LNP obligations for all Petitioners until December 31, 2005, with special conditions for those dockets in which Midcontinent remains an intervening party.

On September 30, 2004, the Commission issued its Final Decision and Order; Notice of Entry of Order.

On October 29, 2004, the Commission received a Petition for Reconsideration by WWC License, LLC and Brief in Support of Petitions to Reconsider Final Decision and Order. On

November 22, 2004, the Commission received a Brief of Petitioners in Support of Opposition to the Petition for Reconsideration by WWC License, LLC. On November 23, 2004, the Commission received an Opposition to the Petition to Reconsider Final Decision and Order from Petitioner.

The Commission has jurisdiction in this matter pursuant to SDCL 49-31-80, Section 251(f)(2) of the Telecommunications Act of 1996, 47 U.S.C. Section 251(f)(2), and ARSD 20:10:32:39.

At its December 28, 2004, meeting, the Commission considered this matter. The Commission voted unanimously to deny the Petition for Reconsideration, except for amendments to clarify the Commission's findings and conclusions relative to SDCL 49-31-80(2), which are set forth in a separate Amended Final Decision and Order; Notice of Entry. It is therefore

ORDERED, that the Petition for Reconsideration is hereby denied, except for amendments to clarify the Commission's findings and conclusions relative to SDCL 49-31-80(2), which are set forth in a separate Amended Final Decision and Order; Notice of Entry.

Dated at Pierre, South Dakota, this 30th day of December, 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: _____
Date: _____
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

ROBERT K. SAHR, Chairman

GARY HANSON, Commissioner

JAMES A. BURG, Commissioner