

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

<b>IN THE MATTER OF THE PETITION OF )</b>	<b>ORDER DENYING</b>
<b>SPRINT COMMUNICATIONS COMPANY L.P. )</b>	<b>INTERVENTION</b>
<b>FOR ARBITRATION PURSUANT TO THE )</b>	
<b>TELECOMMUNICATIONS ACT OF 1996 TO )</b>	<b>TC06-175</b>
<b>RESOLVE ISSUES RELATING TO AN )</b>	
<b>INTERCONNECTION AGREEMENT WITH )</b>	
<b>INTERSTATE TELECOMMUNICATIONS )</b>	
<b>COOPERATIVE, INC. )</b>	

On October 16, 2006, Sprint Communications Company L.P. (Sprint) filed a petition to arbitrate, pursuant to SDCL 49-31-81 and ARSD 20:10:32:29-32, and Section 252(b) of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), certain terms and conditions of a proposed Interconnection Agreement between Sprint and Interstate Telecommunications Cooperative, Inc. (ITC). Sprint filed a list of unresolved issues consisting of: (1) Should the definition of End User in this Agreement include end users of a service provider for which Sprint provides interconnection, telecommunications services or other telephone exchange services? (2) Should the Interconnection Agreement permit the parties to combine wireless and wireline traffic on interconnection trunks? (3) Should the Interconnection Agreement permit the parties to combine all traffic subject to reciprocal compensation charges and traffic subject to access charges onto interconnection trunks? (4) Should the Interconnection Agreement contain provisions for indirect interconnection consistent with Section 251(a) of the Act? (5) In an indirect interconnection scenario, is the ILEC responsible for any facility or transit charges related to delivering its originating traffic to Sprint outside of its exchange boundaries? (6) What direct interconnection terms should be contained in the Interconnection Agreement? (7) What are the appropriate rates for direct interconnection facilities? (8) When a two-way interconnection facility is used, should Sprint and Interstate share the cost of the interconnection facility between their networks based on their respective percentages of originated traffic? (9) What is the appropriate reciprocal compensation rate for the termination of telecommunications traffic, as defined by Sprint in the Agreement? (10) Should Sprint's proposed language regarding Local Number Portability be adopted and incorporated into the Interconnection Agreement? (11) Should the Interstate-proposed Directory Listing provisions, as modified by Sprint, be adopted and incorporated into the Interconnection Agreement? Sprint respectfully requests the Commission to arbitrate each of the remaining disputes between Sprint and Interstate, to find in Sprint's favor and to adopt Sprint's proposed contract language. In accordance with ARSD 20:10:32:30, a non-petitioning party may respond to the petition for arbitration and provide additional information within 25 days after the Commission receives the petition.

On October 19, 2006, the Commission electronically transmitted notice of the filing and the intervention deadline of November 10, 2006, to interested individuals and entities. On October 30, 2006, the Commission received a Joint Motion of Interstate Telecommunications Cooperative, Inc. and Brookings Municipal Utilities d/b/a Swiftel Communications for Deferral of Hearing on Sprint Communications Company's Request for Consolidation. On November 3, 2006, the Commission received a Petition to Intervene from South Dakota Telecommunications Association (SDTA). On November 13, 2006, the Commission received Sprint's Opposition to SDTA's Petition to Intervene and Response of Interstate Telecommunications Cooperative, Inc. to the Petition for Arbitration and Request for Consolidation of Sprint Communications Company L.P. At its November 14, 2006, meeting, the Commission deferred SDTA's request for intervention and the request to consolidate Dockets TC06-175 and TC06-176.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31, including 49-31-3 and 49-31-81, and 47 U.S.C. sections 251 and 252. The Commission may rely upon any or all of these or other laws of this state in making its determination.

At its December 6, 2006, meeting, the Commission considered the Petition to Intervene. The Commission voted to deny intervention to SDTA (Commissioner Kolbeck dissented). The Commission finds that allowing an intervenor into the proceeding is inconsistent with the federal statutory scheme which sets forth the processes to be followed by state commissions in arbitration proceedings. An arbitration proceeding is clearly contemplated as a proceeding between the party petitioning for arbitration and the non-petitioning party. See 47 U.S.C. § 252. This makes sense as the result of the arbitration is a binding interconnection agreement between the two parties. The Commission would further note that its rules allow for the input of non-parties to the Interconnection Agreement. Pursuant to ARSD 20:10:32:34, a person may file comments on the arbitrated agreement with the Commission.

It is therefore

ORDERED, that SDTA's Petition to Intervene is denied.

Dated at Pierre, South Dakota, this 28<sup>th</sup> day of December, 2006.

<b>CERTIFICATE OF SERVICE</b>	
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><i>Delaine Kolbo</i></u>
Date:	<u>12/29/06</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

*Dustin M. Johnson*  
DUSTIN M. JOHNSON, Chairman

*Gary Hanson*  
GARY HANSON, Commissioner

STEVE KOLBECK, Commissioner  
Dissenting