

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

<b>IN THE MATTER OF THE APPLICATION OF )</b>	<b>ORDER GRANTING MOTION</b>
<b>SPRINT COMMUNICATIONS COMPANY L.P. )</b>	<b>TO CONSOLIDATE</b>
<b>FOR AUTHORITY TO PROVIDE LOCAL )</b>	<b>HEARINGS; ORDER</b>
<b>EXCHANGE SERVICES IN CERTAIN RURAL )</b>	<b>GRANTING MOTION TO</b>
<b>AREAS SERVED BY BROOKINGS MUNICIPAL )</b>	<b>COMPEL IN PART</b>
<b>UTILITIES D/B/A SWIFTEL COMMUNICATIONS )</b>	<b>TC06-178</b>

On October 20, 2006, the Public Utilities Commission (Commission) received an Application from Sprint Communications Company L.P. (Sprint) for authority to provide local exchange services in certain rural areas served by Brookings Municipal Utilities d/b/a Swiftel Communications (Swiftel).

On October 26, 2006, the Commission electronically transmitted notice of the filing and the intervention deadline of November 10, 2006, to interested individuals and entities. South Dakota Telecommunications Association (SDTA) filed to intervene on November 7, 2006. Swiftel filed to intervene on November 9, 2006. Swiftel was granted intervention. SDTA was granted intervention subject to certain restrictions. On March 30, 2007, the Commission issued an Order Setting Procedural Schedule; Order for and Notice of Hearing scheduling the hearing to be held on June 28, 2007. On May 4, 2007, the Commission received a Joint Motion for Delay of Hearing. At its regularly scheduled meeting of May 22, 2007, the Commission unanimously voted to grant the Joint Motion for Delay of Hearing. On July 5, 2007, the Commission received a Joint Motion for Delay of Hearing. At its meeting on July 11, 2007, the Commission granted the Joint Motion for Delay of Hearing. On January 11, 2008, the Commission received a Joint Motion for Delay of Hearing.

At its January 29, 2008, meeting, the Commission considered the Joint Motion for Delay of Hearing. Commission Staff recommended approval. The Commission unanimously voted to grant the Joint Motion for Delay of Hearing. On May 13, 2008, the Commission received a Motion to Request the Commission Enter a Protective Order.

At its May 20, 2008, meeting, the Commission considered the Motion to Request the Commission Enter a Protective Order. All parties agreed to entry of the Order. Commission Staff recommended approval. The Commission unanimously voted to grant the Motion to Request the Commission Enter a Protective Order. Pursuant to an Order for and Notice of Hearing dated May 28, 2008, the hearing in this matter has been scheduled to begin at 9:00 A.M. on August 20, 2008, and continuing at 8:00 A.M. on August 21-22, 2008, in the Visitors Center, 650 East Capitol, Pierre, South Dakota.

By order dated June 27, 2008, the following procedural schedule was agreed to by the parties:

<u>Event</u>	<u>Date</u>
Simultaneous Direct Testimony Due	July 9, 2008
Simultaneous Reply Testimony Due	August 4, 2008

The Parties agreed Swiftel may present new arguments that are connected to discovery it obtains through a Motion to Compel, or is otherwise produced late, in its Reply Testimony due

August 4, 2008. The Parties also agreed Sprint may then reply specifically to the new Swiftel arguments by August 13, 2008.

Pursuant to an Order for and Notice of Hearing dated May 28, 2008, the hearing in this matter has been scheduled to begin at 9:00 A.M. on August 20, 2008, and continuing at 8:00 A.M. on August 21-22, 2008, in the Visitors Center, 650 East Capitol, Pierre, South Dakota.

On June 26, 2008, Swiftel filed a Motion to Compel Responses and Production of Documents Addressed to Sprint Communications, L.P. as Propounded by Brookings Municipal Utilities d/b/a Swiftel Communications. On July 9, 2008, Sprint filed its response. At its July 14, 2008, ad hoc meeting, the Commission granted the Motion to Compel in part.

On July 21, 2008, the Commission received Swiftel's Motion to Compel Redacted Portions of Agreement. This was an issue that arose in its previous Motion to Compel. On July 22, 2008, the Commission received Sprint's Motion to Consolidate the evidentiary hearing in this docket with the hearing in Docket TC06-188. On August 8, 2008, the Commission received from Swiftel a Supplement to Motion to Compel. On August 11, 2008, the Commission received Staff's Response to Request for Production of Contractual Language, Sprint's Brief and Argument on Redacted Sections of MCC Telephony, Inc.'s and Sprint's Agreement, and Swiftel's Argument in Support of the Redacted Material Sought by Swiftel.

At its July 29, 2008, the Commission considered the motions. The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31, specifically SDCL 49-31-69 through 49-31-75, inclusive. The Commission voted unanimously to grant the Motion to Consolidate Hearings. The Commission deferred action on the Motion to Compel Redacted Portions of the Agreement. At its August 6, 2008, meeting, the Commission again considered the Motion to Compel. MCC and Sprint argued that the portions of the Agreement that Swiftel was seeking access to were highly confidential. Without objection from any of the parties, the Commission decided to review the Agreement in-camera in order to be able to make a ruling on the issues in the Motion to Compel. At its August 12, 2008, meeting, the Commission listened to the arguments of the parties regarding the portions of the Agreement that Swiftel was still seeking to be compelled. Commission Staff recommended denial of the motion. The Commission voted unanimously to deny the motion regarding: (1) page 25, the portions entitled MFN; Termination Rights; (2) page 43, the portion entitled Termination; (3) page 44, the portion entitled Termination for Convenience; (4) pages 1 and 2, the redacted portions regarding the term of the Agreement; and (5) page 20, the portion entitled Transport for Commercial Business. The Commission unanimously voted to grant the motion regarding Appendix 5, Service Level Agreements. The Commission voted to grant the motion for Appendix 1 – Initial Market List and Deployment Schedule, limited to the service territories that Swiftel serves as an incumbent local exchange carrier (Commissioner Kolbeck, dissenting). The parties agreed Swiftel would be allowed to file testimony on or before August 19, 2008, that addressed the additional information that was ordered to be produced.

It is therefore

ORDERED, that Sprint's Motion to Consolidate Hearings is granted; and it is

FURTHER ORDERED, that Swiftel's Motion to Compel is granted in part and denied in part.

Dated at Pierre, South Dakota, this 20<sup>th</sup> day of August, 2008.

**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, electronically.

By: *Aldine Kolbe*

Date: *8/20/08*

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

*Gary Hanson*  
GARY HANSON, Chairman

*Steve Kolbeck*  
STEVE KOLBECK, Commissioner,  
Dissenting in Part

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