

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

IN THE MATTER OF THE APPLICATION OF)	ORDER GRANTING
SPRINT COMMUNICATIONS COMPANY L.P.)	CERTIFICATE OF
FOR AUTHORITY TO PROVIDE LOCAL)	AUTHORITY
EXCHANGE SERVICES IN CERTAIN RURAL)	
AREAS SERVED BY BROOKINGS MUNICIPAL)	TC06-178
UTILITIES D/B/A SWIFTEL COMMUNICATIONS)	

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). In its Application, Sprint stated that Sprint and MCC Telephony of the Midwest, Inc. (MCC) have "entered into a contract to provide facilities-based competitive local and long distance voice service within several markets already receiving cable TV and broadband services from MCC in South Dakota." Sprint further explained that it will provide the switching; public switched telephone network interconnectivity, including all inter-carrier compensation; numbering resources, administration and porting; domestic and international toll service; operator and directory assistance; 911 circuit provisioning, database administration, and contract negotiation along with and numerous back-office functions. MCC will provide the last-mile facilities to the customer premise, along with sales, billing, customer service, and installation. In its prefiled testimony Sprint requested that the Commission determine that Sprint's geographic area is defined by and consists of the exact same territory as MCC's current footprint.

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 meeting on May 22, 2007, the Commission granted 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 meeting on January 29, 2008, the Commission granted 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 meeting on May 20, 2008, the Commission granted the Motion to Request the Commission Enter a Protective Order. An Order for and Notice of Hearing, dated May 28, 2008, set the hearing for August 20-22, 2008. By order dated June 27, 2008, the Commission issued a procedural schedule that had been agreed to by the parties.

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 ad hoc meeting on July 14, 2008, 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 meeting on July 29, 2008, the Commission considered the motions. The Commission granted the Motion to Consolidate Hearings. The Commission deferred action on the Motion to Compel Redacted Portions of the Agreement. At its meeting on August 6, 2008, the Commission again considered the Motion to Compel. The Commission granted the Motion to Compel in part. In addition, 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.

On August 19, 2008, the Commission received a Settlement Agreement and Stipulation signed by the parties and Swiftel Communications' Motion to Withdraw from Docket. On August 21, 2008, the Commission received a letter withdrawing intervention from SDTA. At its meeting on August 28, 2008, the Commission approved the Settlement Agreement and Stipulation and granted the Motions to Withdraw.

At its meeting on September 9, 2008, the Commission considered Sprint's request for an Certificate of Authority to provide local exchange services in certain rural areas served by Brookings Municipal Utilities d/b/a Swiftel Communications. 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. Commission Staff recommended granting an certificate of authority.

The Commission finds that Sprint has met the legal requirements established for the granting of a certificate of authority. Sprint has, in accordance with SDCL 49-31-71, demonstrated sufficient technical, financial and managerial capabilities to offer telecommunications services in the requested area. Further, the Commission finds that pursuant to SDCL 49-31-69, a Certificate of Authority shall be granted, in the geographical area that pertains to MCC's current footprint in the Brookings exchange, as it is in the public interest. A map of the area is attached. As the Commission's final decision in this matter, it is therefore

ORDERED, that the request for a Certificate of Authority shall be granted to authorize Sprint to provide competitive local exchange service in the geographical area as shown by the attached map.

Dated at Pierre, South Dakota, this 3rd day of October, 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: <u>Delaine Keebo</u>
Date: <u>10/3/08</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Steve Kolbeck
STEVE KOLBECK, Commissioner,

Dustin M. Johnson
DUSTIN M. JOHNSON, Commissioner

