

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

IN THE MATTER OF THE APPLICATION OF)	ORDER GRANTING
MCC TELEPHONY OF THE MIDWEST, INC.)	CERTIFICATE OF
D/B/A MEDIACOM FOR A CERTIFICATE OF)	AUTHORITY
AUTHORITY TO PROVIDE LOCAL EXCHANGE)	
SERVICES IN THE BROOKINGS EXCHANGE)	TC06-188

On November 6, 2006, the Public Utilities Commission (Commission) received an Application for Certificate of Authority from MCC Telephony of the Midwest, Inc. d/b/a Mediacom (MCC) to provide facilities-based and resold basic local exchange services. The services proposed will include non-switched, switched local services and special access services in the Brookings rural exchange area. MCC will use fiber optic, coaxial or copper transmission facilities and network facilities to provide service. MCC proposes to rely primarily on the existing cable television facilities deployed by its affiliated cable companies and the facilities of its underlying telecommunications carrier. MCC stated that where it does not have access to affiliates' facilities and when market conditions warrant, "MCC may choose to construct its own facilities or provide resold services using the facilities of other certificated local exchange carriers or network providers. MCC will interconnect through Sprint, which will manage the soft switch and gateways used to exchange traffic with the public switched telephone network for call completion." MCC stated that it seeks to serve its affiliates' current cable customers in the Brookings exchange. MCC included a Mediacom/MCC facilities map, showing the boundary of Mediacom facilities in the Brookings area.

On November 9, 2006, the Commission electronically transmitted notice of the filing and the intervention deadline of November 27, 2006, to interested individuals and entities. Brookings Municipal Utilities d/b/a Swiftel Communications (Swiftel) filed to intervene on November 21, 2006. South Dakota Telecommunications Association (SDTA) filed to intervene on November 22, 2006. Swiftel and SDTA were granted intervention. 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 29, 2007. On May 21, 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 August 3, 2007, the Commission received a Joint Motion for Delay of Hearing. At its meeting on August 7, 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 Mediacom as Propounded by Brookings Municipal Utilities d/b/a Swiftel Communications. On July 9, 2008, MCC filed a Motion for Extension of Time to File Additional Direct Testimony. On July 10, 2008, MCC filed its response. At its ad hoc meeting on July 14, 2008, the Commission granted Swiftel's Motion to Compel in part and granted MCC's Motion for Extension of Time.

On July 21, 2008, the Commission received Swiftel's Motion to Compel Redacted Portions of Agreement. This was an issue that arose in Swiftel's previous Motion to Compel. On July 21, 2008, the Commission received MCC's Motion to Consolidate Hearings that requested that the hearing in this docket be consolidated with the hearing in Docket TC06-178. On July 29, 2008, the Commission received MCC's Response to Motion to Compel. 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, 2009, 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 MCC's request for a 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 a certificate of authority.

The Commission finds that MCC has met the legal requirements established for the granting of a certificate of authority. MCC 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 MCC 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>Alaine Kolbo</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

