

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

<b>IN THE MATTER OF THE PETITION OF )</b>	<b><u>AMENDED</u> ORDER FOR AND</b>
<b>BROOKINGS MUNICIPAL UTILITIES D/B/A )</b>	<b>NOTICE OF HEARING</b>
<b>SWITTEL COMMUNICATIONS FOR )</b>	
<b>SUSPENSION OR MODIFICATION OF DIALING )</b>	<b>TC07-007</b>
<b>PARITY, NUMBER PORTABILITY AND )</b>	
<b>RECIPROCAL COMPENSATION )</b>	
<b>OBLIGATIONS )</b>	

On January 30, 2007, Brookings Municipal Utilities d/b/a Swifitel Communications (Swifitel) filed with the Public Utilities Commission (Commission) a Petition for Suspension or Modification of Local Dialing Parity, Number Portability and Reciprocal Compensation Obligations. In its Petition, Swifitel states that it requests the Commission grant a suspension or modification of 47 U.S.C. Sections 251(b)(2), (3) and (5) of the Communications Act of 1934, as amended. "Swifitel requests modification of the local number portability requirement such that it is not required to implement wireline local number portability until 4 months after a competitive LEC is certificated to provide service in Swifitel's service territory. Swifitel also requests modification of the local number portability requirement such that Swifitel is not required to transport numbers beyond its service territory. Swifitel requests modification of the dialing parity requirement such that Swifitel is not required to provide local dialing and it is not required to transport traffic outside of its service territory. Swifitel also requests modification of the toll dialing parity requirement such that Swifitel is not required to perform the equal access function at the end office or establish access traffic transport facilities other than the common trunks to South Dakota Network (SDN). Swifitel also asks the Commission to modify any requirement that Swifitel would not be able to collect access charges for toll traffic. Swifitel requests a modification of the reciprocal compensation requirements such that it is not required to pay reciprocal compensation on traffic terminating to a wireless carrier within the MTA that is handed off to an IXC in accordance with Swifitel's wireline local calling areas. Swifitel also requests immediate temporary suspension of the 251(b)(2), (3) and (5) requirements as described [in its Petition] pending this Commission's consideration of this request."

On February 1, 2007, the Commission electronically transmitted notice of the filing and the intervention deadline of February 16, 2007, to interested individuals and entities. On February 12, 2007, the Commission received Petitions to Intervene from Alltel Communications, Inc. (Alltel) and Sprint Communications Company L.P. (Sprint). On February 14, 2007, the Commission received a Petition to Intervene from Midcontinent Communications (Midcontinent). On February 15, 2007, the Commission received a Petition to Intervene from South Dakota Network, LLC (SDN). On February 16, 2007, the Commission received Petitions to Intervene from MCC Telephony of the Midwest, Inc. d/b/a Mediacom (MCC) and South Dakota Telecommunications Association (SDTA). On March 5, 2007, the Commission received an Opposition of Brookings Municipal Utilities d/b/a Swifitel Communications to Petition to Intervene filed by Midcontinent Communications. On March 9, 2007, the Commission received Midcontinent's Reply to Swifitel's Opposition to Midcontinent's Intervention Petition. On March 13, 2007, the Commission received a Withdrawal of Opposition of Brookings Municipal Utilities d/b/a Swifitel Communications to Petition to Intervene filed by Midcontinent Communications. At its March 13, 2007 meeting, the Commission granted all of the Petitions to Intervene. On April 2, 2007, the Commission issued a protective order.

On April 17, 2007, the Commission received Alltel's Response to the Swiftel Petition for Suspension or Modification, Sprint's Response to Swiftel's Petition for Suspension or Modification and General Response of Intervenor South Dakota Network, LLP to Swiftel's Petition. On April 18, 2007, the Commission received SDTA Answer to Petition and Mediacom's General Response to Swiftel's Petition. On April 19, 2007, the Commission received a General Response of Midcontinent to Swiftel's Petition. On July 9, 2007, the Commission received a Stipulation signed by the parties which the Commission granted at its August 7, 2007, meeting. On January 9, 2008, the Commission received a Stipulation signed by the parties which the Commission granted at its February 26, 2008, meeting.

A hearing will be held on this matter beginning at 8:30 a.m., on August 26, 2008, ~~with marking of exhibits to begin at the conclusion of the Commission meeting, and the hearing to begin at 1:00 p.m.~~, and continuing on August 27-28, 2008, at 8:30 a.m., in the Visitors Center, 650 East Capitol, Pierre, South Dakota.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31, including 49-31-3, 49-31-79 through 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. The issues to be determined by the Commission concern whether to grant a suspension or modification of 47 U.S.C. Sections 251(b)(2), (3), and (5) as set forth in Swiftel's Petition, including the following: (1) Whether to grant Swiftel's request for modification of the local number portability requirement such that Swiftel is not required to implement wireline local number portability until four months after a competitive LEC is certificated to provide service in Swiftel's service territory; (2) Whether to grant Swiftel's request for modification of the local number portability requirement such that Swiftel is not required to transport numbers beyond its service territory; (3) Whether to grant Swiftel's request for modification of the dialing parity requirement such that Swiftel is not required to provide local dialing and is not required to transport traffic outside of its service territory; (4) Whether to grant Swiftel's request for modification of the toll dialing parity requirement such that Swiftel is not required to perform the equal access function at the end office or establish access traffic transport facilities other than the common trunks to South Dakota Network (SDN); (5) Whether to grant Swiftel's request to modify any requirement that Swiftel would not be able to collect access charges for toll traffic; and (6) Whether to grant Swiftel's request for a modification of the reciprocal compensation requirements such that Swiftel is not required to pay reciprocal compensation on traffic terminating to a wireless carrier within the MTA that is handed off to an IXC in accordance with Swiftel's wireline local calling areas.

The hearing will be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All persons testifying will be subject to cross-examination by the parties. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights may be forfeited if not exercised at the hearing. If a party or its representative fails to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission will resolve issues listed above and order any appropriate relief. The Commission's Final Decision may be appealed by the parties as provided by law. It is therefore

ORDERED, that a hearing shall be held at the time and place specified above on the issues set forth above.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 28<sup>th</sup> day of July, 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: Delaine Kolbo

Date: 7/28/08

(OFFICIAL SEAL)

**BY ORDER OF THE COMMISSION:**

Gary Hanson  
GARY HANSON, Chairman

Steve Kolbeck  
STEVE KOLBECK, Commissioner

Dustin M. Johnson  
DUSTIN M. JOHNSON, Commissioner