

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

IN THE MATTER OF THE PETITIONS FOR) SUSPENSION OR MODIFICATION OF 47) U.S.C. SECTION 251(b)(2) OF THE) COMMUNICATIONS ACT OF 1934 AS) AMENDED)	ORDER APPROVING) STIPULATION; ORDER) GRANTING TEMPORARY) SUSPENSIONS AND) MODIFICATIONS) TC08-006 through TC08-027
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On February 8, 2008, Petitioners filed petitions with the Public Utilities Commission (Commission) for a suspension and modification of the number portability requirement in Section 251(b)(2) of the Communications Act of 1934, as amended. Petitioners' requested modification of intermodal LNP and LNP to VoIP providers concerns the transport of ported calls. Petitioners claimed that, at present, not all of the necessary transport arrangements are in place with wireless carriers and VoIP providers to properly route calls to ported local numbers. Petitioners also requested immediate temporary suspension of the Section 251(b)(2) requirement pending this Commission's consideration of this request. Petitioners respectively requested that the Commission: (A) Issue an interim order by no later than May 8, 2008, which would suspend intermodal LNP implementation pending the issuance of a final order on the separate requests for suspension and modification of the LNP requirements that are presented herein; (B) Issue a final order granting a temporary suspension of the present LNP implementation deadline of May 8, 2008, as requested herein; (C) Issue a final order granting a modification of intermodal LNP such that Petitioners will not be required to pay the costs associated with transporting traffic beyond their established local calling areas to numbers that have been ported to other carriers; and (D) Grant Petitioners such other and further relief as the Commission may deem proper.

On April 22, 2008, the Commission received a Stipulation for Procedural Schedule signed by the parties. At a regularly scheduled meeting of April 22, 2008, the Commission unanimously voted to approve the Stipulation for Procedural Schedule. On June 25, 2008, the Commission received a Motion for Modification of the Stipulation for Procedure Schedule from the petitioners. On June 27, 2008, the Commission received Alltel's Opposition to the Motion for Modification of the Stipulation for Procedure Schedule. On June 27, 2008, a conference call was held to discuss the motion. On June 27, 2008, the Commission issued an Order Approving Modifications to Procedural Schedule. Another conference call was held as scheduled on July 7, 2008. Based on the conference call, the parties to the above-listed dockets agreed to further modifications of the procedural schedule. In addition, the petitioners agreed to withdraw their Motion for Modification. On July 9, 2008, the Commission issued an Order Approving Modifications to Procedural Schedule. On July 16, 2008, the Commission issued an Order for and Notice of Hearing scheduling the hearing for September 4 and 5, 2008. On July 17, 2008, the Commission received a Stipulation signed by the parties.

On July 30, 2008, the Commission received a Request for Further Temporary Suspension from the petitioners. On August 5, 2008, the Commission received a Response to Request for Further Temporary Suspension.

In the Stipulation for Procedural Schedule filed April 22, 2008, the parties had agreed that exhibits that may be used on cross-examination would be provided to the other party on or before August 11, 2008. Given the changes to the other dates in the Stipulation, the parties agreed to change this date to September 2, 2008. On August 6, 2008, the Commission issued an Order Approving Modification to Procedural Schedule.

At a regularly scheduled meeting of August 6, 2008, the Commission considered the Request for Further Temporary Suspension. The Commission voted unanimously to grant the Request for Further Temporary Suspension according to the terms of the Request. At an ad hoc meeting of August 28, 2008, the Commission considered the Stipulation filed July 17, 2008. In the Stipulation, the Petitioners agreed to amend their petitions to include language that the Petitioners are not "requesting a suspension or modification of local number portability between telecommunications companies certificated by the commission to provide local exchange service." The Stipulation further provided that, upon adoption, the Commission would make a determination that Sprint, Mediacom, and Midcontinent Communications no longer have an interest in these dockets and should be dismissed. The Commission voted unanimously to approve the Stipulation.

On September 26, 2008, the Commission received an LNP Settlement Agreement in each of the dockets signed by the Petitioners and Verizon Wireless. On September 29, 2008, the Commission received an LNP Settlement Agreement in each of the dockets signed by the Petitioners and Alltel.¹ In the LNP Settlement Agreements, which were filed as confidential, the parties agreed on the implementation dates for LNP. The implementation dates are listed on Attachment A.² On October 3, 2008, the Commission received a Stipulation signed by the parties. In the Stipulation, the parties agreed that "[e]ach Petitioner shall implement local number portability ("LNP") in accordance with the LNP Settlement Agreement and Stipulation it has entered into with Alltel and Verizon Wireless. The Parties request that the Commission grant each Petitioner a temporary suspension of Section 251 (b)(2) to the LNP implementation time set forth in its specific LNP Settlement Agreement and Stipulation." The Parties further agreed that the Commission should modify each Petitioner's obligation under section 251(b) with the following language:

Petitioner's obligations under 47 U.S.C. § 251(b)(2) are modified pursuant to 47 U.S.C. § 251(f)(2) so that Petitioner will be obligated to port numbers only to wireless carriers or interconnected VOIP providers that obtain NANP telephone numbers through a wireless carrier (a) directly connected with Petitioner; (b) indirectly connected to Petitioner through an EAS arrangement that Petitioner has with another ILEC, where both the Petitioner and ILEC agree to the use of the EAS arrangement; (c) indirectly connected to Petitioner through the SDN tandem in Sioux Falls, via SDN's facilities; or (d) indirectly connected to an ILEC's local calling area through a direct connection to a different local calling area. When Petitioner is indirectly connected to a wireless carrier or an interconnected VOIP provider that obtains NANP telephone numbers through a wireless carrier, the payment of any charges associated with the transport of calls to numbers ported to the wireless carrier or interconnected VOIP provider will be determined pursuant to the mechanisms provided for in the Communications Act. Any other requests for relief are hereby denied. This shall constitute the final decision in this matter and upon the effective date hereof, Docket No. 08-006 through 08-027 shall be closed.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31, 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 regularly scheduled meeting of October 21, 2008, the Commission considered the Stipulation filed October 3, 2008. The Commission voted unanimously to approve the Stipulation. The Commission approves the granting of an additional temporary suspension for each Petitioner as

¹ The Swiftel LNP Settlement Agreements were filed on October 17, 2008.

² At the October 21, 2008, Commission meeting, the parties agreed that the implementation dates should not be treated as confidential.

set forth in Attachment A. The Commission further finds that the modifications agreed to by the parties shall be approved pursuant to section 251(f)(2)(A)(ii) and (B). Thus, the Commission adopts the language as set forth in the Stipulation and finds that Petitioner's obligations under 47 U.S.C. § 251(b)(2) are modified pursuant to 47 U.S.C. § 251(f)(2) so that Petitioner will be obligated to port numbers only to wireless carriers or interconnected VOIP providers that obtain NANP telephone numbers through a wireless carrier (a) directly connected with Petitioner; (b) indirectly connected to Petitioner through an EAS arrangement that Petitioner has with another ILEC, where both the Petitioner and ILEC agree to the use of the EAS arrangement; (c) indirectly connected to Petitioner through the SDN tandem in Sioux Falls, via SDN's facilities; or (d) indirectly connected to an ILEC's local calling area through a direct connection to a different local calling area. When Petitioner is indirectly connected to a wireless carrier or an interconnected VOIP provider that obtains NANP telephone numbers through a wireless carrier, the payment of any charges associated with the transport of calls to numbers ported to the wireless carrier or interconnected VOIP provider will be determined pursuant to the mechanisms provided for in the Communications Act. Any other requests for relief are hereby denied. This shall constitute the final decision in this matter and upon the effective date hereof, Docket No. 08-006 through 08-027 shall be closed.

It is therefore

ORDERED, that the Stipulation is hereby approved; and it is

FURTHER ORDERED, that the Commission grants the temporary suspensions as set forth in Attachment A and modifies the Petitioners' section 251 (b)(2) obligations as set forth above.

Dated at Pierre, South Dakota, this 29th 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 Kolbo</u>
Date:	<u>10/29/08</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Steve Kolbeck
STEVE KOLBECK, Commissioner

Austin M. Johnson
DUSTIN M. JOHNSON, Commissioner
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ATTACHMENT A

Docket TC08-006: Alliance Communications Cooperative, Inc., Splitrock Properties, Inc, and Hills Telephone Company Alliance shall implement LNP within four months of August 29, 2008.

Docket TC08-007: Kennebec Telephone Company shall implement LNP within three months of August 28, 2008.

Docket TC08-008: Faith Municipal Telephone Company shall implement LNP within four months of August 29, 2008.

Docket TC08-009: Western Telephone Company shall implement LNP within four months of August 28, 2008.

Docket TC08-010: Sioux Valley Telephone Company shall implement LNP no later than July 1, 2009.

Docket TC08-011: Venture Communications Cooperative shall implement LNP within four months of August 28, 2008.

Docket TC08-012: RC Communications, Inc. and Roberts County Telephone Cooperative Company shall implement LNP within four months of August 28, 2008.

Docket TC08-013: Beresford Municipal Telephone Company shall implement LNP within four months of August 28, 2008.

Docket TC08-014: Golden West Telecommunication Cooperative shall implement LNP no later than January 1, 2009.

Docket TC08-015: Vivian Telephone Company shall implement LNP no later than January 1, 2009.

Docket TC08-016: Kadoka Telephone Company shall implement LNP no later than January 1, 2009.

Docket TC08-017: Brookings Municipal Utilities d/b/a Swiftel Communications shall implement LNP no later than January 30, 2009.

Docket TC08-018: Union Telephone Company shall implement LNP no later than January 1, 2009.

Docket TC08-019: Armour Independent Telephone Company shall implement LNP no later than July 1, 2009.

Docket TC08-020: McCook Cooperative Telephone and Tri-County Telcom, Inc. shall implement LNP within three months of August 28, 2008.

Docket TC08-021: Bridgewater-Canistota Independent Telephone Company shall implement LNP no later than January 1, 2009.

Docket TC08-022: Valley Telecommunications Cooperative Association shall implement LNP by January 1, 2009.

Docket TC08-023: Midstate Communications shall implement LNP within four months of August 28, 2008.

Docket TC08-024: Interstate Telecommunications Cooperative shall implement LNP within four months of August 28, 2008.

Docket TC08-025: West River Cooperative Telephone Company shall implement LNP within four months of August 28, 2008.

Docket TC08-026: Stockholm-Strandburg Telephone Company shall implement LNP within four months of August 28, 2008.

Docket TC08-027: Santel Communications Cooperative shall implement LNP within four months of August 29, 2008.