## OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION OF MIDSTATE COMMUNICATIONS, INC. FOR SUSPENSION OR MODIFICATION OF 47 U.S.C. § 251(B)(2) OF THE COMMUNICATIONS ACT OF 1934 AS AMENDED

ORDER GRANTING INTERIM
SUSPENSION PENDING
FINAL DECISION AND
ORDER GRANTING
INTERVENTION
TC04-052

On March 12, 2004, Midstate Communications, Inc. (Midstate) filed a petition seeking suspension or modification of its requirement to implement local number portability (LNP) pursuant to Section 251(b)(2) of the Telecommunications Act of 1996. According to Midstate, it has received requests to deploy LNP from Cellco Partnership d/b/a Verizon Wireless and Western Wireless Corporation d/b/a CellularOne. Midstate states that it is a small telephone company that serves less than two percent of the nation's subscriber lines installed in the aggregate nationwide, therefore under Section 251(f)(2) Midstate may petition the Commission for suspension or modification of its obligation to implement LNP within six months of a request to deploy LNP. Midstate "requests the Commission to (1) issue an interim order that suspends any obligation that may exist for Midstate to provide LNP until six months after entry of a final order herein; (2) issue a final order that grants a permanent suspension for Midstate's obligation to implement LNP until conditions are met as described herein; and (3) grant Midstate such other and further relief that may be proper."

On March 18, 2004, the Commission electronically transmitted notice of the filing and the intervention deadline of April 2, 2004, to interested individuals and entities. WWC License LLC d/b/a CellularOne (Western Wireless) filed to intervene on March 30, 2004, and the South Dakota Telecommunications Association (SDTA) filed to intervene on March 31, 2004.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31 and ARSD 20:10:01:15.05.

At a regularly scheduled meeting of April 6, 2004, the Commission heard arguments from Midstate, Western Wireless and SDTA regarding Midstate's request for an order granting interim suspension. Pursuant to 47 U.S.C. Section 251(f)(2) of the Telecommunications Act of 1996 and SDCL 49-31-80, the Commission voted to grant the request for an interim suspension order pending final decision. The Commission found that the Petitions to Intervene were timely filed and demonstrated good cause to grant intervention. It is therefore

ORDERED, that the request for an interim suspension order pending final decision is hereby granted; and it is further

ORDERED, that the Petitions to Intervene of Western Wireless and SDTA are hereby granted.

Dated at Pierre, South Dakota, this \_\_\_\_\_\_\_day of April, 2004.

## 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, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Wellaine Kolbo

Date: 4/20/04

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

ROBERT K. SAHR. Chairman

» /A

GARY MANSON, Commissioner

JAMES A. BURG, Commissioner