

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

<b>IN THE MATTER OF THE PETITION OF )</b>	<b>ORDER FOR AND NOTICE</b>
<b>SANTEL COMMUNICATIONS COOPERATIVE, )</b>	<b>OF PROCEDURAL</b>
<b>INC. FOR SUSPENSION OF INTERMODAL )</b>	<b>SCHEDULE AND HEARING</b>
<b>LOCAL NUMBER PORTABILITY )</b>	<b>AND OF INTENT TO TAKE</b>
<b>OBLIGATIONS )</b>	<b>JUDICIAL NOTICE</b>
<b>)</b>	<b>TC04-038</b>

On February 25, 2004, Santel Communications Cooperative, Inc. (Santel or Petitioner) filed a petition pursuant to 47 U.S.C. Section 251(f)(2) and SDCL 49-31-80 seeking suspension of its requirement to implement local number portability (LNP) pursuant to Section 251(b)(2) of the Telecommunications Act of 1996. The petition requests the Commission to issue a final order that grants a permanent suspension for Santel's obligation to implement LNP until conditions are met as described in the petition. On April 5, 2004, the Commission issued an order granting intervention to WWC License LLC d/b/a CellularOne, Midcontinent Communications and the South Dakota Telecommunications Association. On April 19, 2004, the Commission issued an order granting Santel's request for interim suspension of its obligation to implement LNP pending final decision pursuant to 47 U.S.C. Section 251(f)(2) of the Telecommunications Act of 1996 and SDCL 49-31-80.

The Commission has jurisdiction in this matter pursuant to SDCL 49-31-80, Section 251(f)(2) of the Telecommunications Act of 1996, 47 U.S.C. Section 251(f)(2), and ARSD 20:10:32:39.

**Procedural Schedule**

The due dates for pre-filing of testimony are as follows (all dates 2004):

- May 14      Petitioner's direct testimony and exhibits
- May 28      Intervenors' and Staff's reply testimony and exhibits
- June 14     Petitioner's rebuttal testimony and exhibits

The schedule for discovery is as follows (all dates 2004):

- April 28    General interrogatories, document requests and other general discovery requests by all parties
- May 11     Responses to general discovery requests by all parties
- May 18     Supplemental discovery requests by intervenors and Staff following Petitioner's pre-filed testimony
- May 24     Petitioner's responses to supplemental discovery requests
- June 3     Supplemental discovery requests by Petitioner following intervenors' and Staff's pre-filed testimony
- June 10    Intervenors' and Staff's responses to Petitioner's supplemental discovery requests

## Judicial Notice

The Commission hereby gives notice pursuant to SDCL 1-26-19(3) that it intends to take judicial notice of the fact that Petitioner is a local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide. Any party objecting to this taking of judicial notice shall serve notice of such objection on the Commission and the parties prior to the hearing.

## Notice of Hearing

A hearing will be held on this matter beginning at 10:00 A.M. on July 1, 2004, in the Second Floor Conference Room of the Soldiers and Sailors War Memorial Building (across Capitol Avenue from the Capitol Building), Pierre, South Dakota.

As provided in SDCL 49-31-80 and 47 U.S.C. Section 251(f)(2), the issues at the hearing will be:

- (i) whether and the extent to which the suspension of LNP requirements requested by Petitioner
  - (a) is necessary:
    - (1) To avoid a significant adverse economic impact on users of telecommunications services generally;
    - (2) To avoid imposing a requirement that is unduly economically burdensome;  
or
    - (3) To avoid imposing a requirement that is technically infeasible; and
  - (b) is consistent with the public interest, convenience, and necessity;
- (ii) if a suspension is found to be justified, what the duration of the suspension should be; and
- (iii) whether any other relief should be granted.

The hearing will be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights will 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 may 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. As a result of the hearing, the Commission may either grant or deny the request of Petitioner to suspend the requirement of 47 U.S.C Section 251(b)(2) that it provide local number portability to requesting carriers and, if so, for what duration and subject to what conditions. The Commission's Final Decision may be appealed to the state Circuit Court and the state Supreme Court as provided by law. It is therefore

ORDERED, that the parties shall comply with the procedural schedule and discovery schedule set forth above; and it is

FURTHER ORDERED, that a hearing shall be held at the time and place specified above on the issue of whether Petitioner's request to suspend its local number portability obligations under 47 U.S.C Section 251(b)(2) should be granted and, if so, for what duration.

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 4th day of May, 2004.

<p align="center"><b>CERTIFICATE OF SERVICE</b></p> <p>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.</p> <p>By: <u>Rebecca Kolbo</u></p> <p>Date: <u>5/5/04</u></p> <p align="center">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

Robert K. Sahr

ROBERT K. SAHR, Chairman

Gary Hanson

GARY HANSON, Commissioner

James A. Burg

JAMES A. BURG, Commissioner

