

95-591

K7

TC03-055

DOCKET NO.

In the Matter of _____

**IN THE MATTER OF THE FILING FOR
 APPROVAL OF A RECIPROCAL
 TRANSPORT AND TERMINATION
 AGREEMENT BETWEEN WWC
 LICENSE L.L.C. AND MIDCONTINENT
 COMMUNICATIONS, INC.**

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
3/3 03	<i>Filed and docketed;</i>
3/6 03	<i>Weekly filings;</i>
4/8 03	<i>Order Approving Agreement;</i>
4/8 03	<i>Docket Closed.</i>

TC03-055

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MAR 03 2003

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

HAND DELIVERED

Pamela Bonrud
Executive Secretary
Public Utilities Commission
500 East Capitol Avenue
Pierre, South Dakota 57501

RE: **MIDCONTINENT TELECOMMUNICATIONS; RECIPROCAL
TRANSPORT AND TERMINATION AGREEMENT
WITH WESTERN WIRELESS**

Our file: 0053

Dear Pam:

Enclosed are original and ten copies of a Reciprocal Transport and Termination Agreement between Midcontinent Communications and Western Wireless. Please file the enclosure for approval by the Commission. Additionally, I am enclosing two extra face pages of the agreement. Please date stamp the face pages and return them to me in the enclosed self-addressed stamped envelope.

Please contact Nancy Vogel or Mary Lohnes of Midcontinent, or me, with any questions that you might have. Counsel for Western Wireless is Talbot Wieczorek:

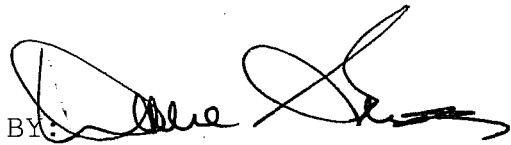
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Rapid City, South Dakota 57709-8045

Pamela Bonrud
March 3, 2003
Page 2

Thank you for your assistance.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

DAG:mw

Enclosures

cc/enc: Nancy Vogel
Mary Lohnes
Ron Williams
Talbot Wieczorek

MAR 03 2003

**Reciprocal Transport and Termination Agreement
For the State of South Dakota**

**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

This Reciprocal Transport and Termination Agreement (the "Agreement") is entered into by and between WWC License L.L.C. ("Western Wireless") with offices at 3650 131st Ave., S.E., Bellevue, Washington 98006 and Midcontinent Communications ("Midco") with offices at 5001 West 41st Street, Sioux Falls, South Dakota. Western Wireless and Midco are each individually a "Party" and are together the "Parties" to this Agreement. The "effective date" of this Agreement is January 1, 2003.

Western Wireless is licensed by the Federal Communications Commission ("FCC") as a Commercial Mobile Radio Service provider. Midco and Western Wireless agree to exchange wireline to wireless and wireless to wireline traffic for the benefit of the Parties. Services provided by Midco to Western Wireless under this Agreement are provided pursuant to the receiving Party's status as a CMRS Provider.

WHEREAS, the Parties currently extend arrangements to one another allowing for the transport and termination of wireline to wireless and wireless to wireline traffic over each other's network facilities, between each other's subscribers; and

WHEREAS, the Parties wish to put in place an arrangement for the mutual exchange and reciprocal compensation of local telecommunications traffic in accord with the Telecommunications Act of 1996, and which is intended to supersede any previous arrangements between the parties relating to such traffic;

NOW, THEREFORE, in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Western Wireless and Midco hereby agree as follows:

1. Scope. This Agreement addresses the parties' reciprocal compensation obligations as described in § 251(b)(5) of the Telecommunications Act of 1996 (the "Act"). By this Agreement, neither Party waives any other rights it may have under the Act or rules of the FCC, under state statute, or pursuant to rules of the State Public Utilities Commission ("Commission").
2. Interpretation and Construction. The terms and conditions of this Agreement shall be subject to any and all applicable laws, rules, regulations or guidelines that subsequently may be prescribed by any federal, state or local government authority. To the extent required by any such subsequently prescribed law, rule, regulation or guideline, the Parties agree to modify, in writing, the affected term(s) and condition(s) of this Agreement to bring them into compliance with such law, rule, regulation or guideline.

The Parties further agree and understand that the rates for local transport and termination agreed to, as set forth in Exhibit A hereto, have not been determined based on a specific costing methodology or company specific cost studies and that

they may have to be adjusted when an appropriate costing methodology consistent with § 252(d)(2) of the Telecommunications Act is established and actual cost information or an acceptable cost proxy which reasonably reflects the actual costs of providing the local transport and termination services becomes available.

The Parties enter into this agreement without prejudice to any position they may take with respect to similar future agreements between the Parties or with respect to positions they may have taken previously, or may take in the future in any legislative, regulatory or other public forum addressing any matters, including matters related to the rates to be charged for transport and termination of local traffic or the types of arrangements prescribed by this agreement.

3. Definitions.

- 3.1. "Act" means the Communications Act of 1934 (47 U.S.C. 151 et. seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the FCC or the Commission within its state of jurisdiction.
- 3.2. "CMRS" or "Commercial Mobile Radio Service" is as defined in the Communications Act of 1934 as amended by the Telecommunications Act of 1996.
- 3.3. "Commission" means the South Dakota Public Utilities Commission.
- 3.4. "Local Calling Area (LCA)" for purposes of this Agreement, is a geographic area defined by the Major Trading Area (MTA) within which Western Wireless provides CMRS services where local transport and termination rates apply as set forth in 47 CFR 51.701(b)(2).
- 3.5. "Local Traffic" for purposes of this Agreement means traffic which originates and terminates, based on the location of the wireless subscriber and landline end user, within the same CMRS LCA.
- 3.6. "Major Trading Area (MTA) is a geographic area established in the Rand McNally 1992 Commercial Atlas and Marketing Guide, 123rd Edition, at pages 38-39.
- 3.7. "Non-Local Traffic" is the completion of interMTA calls based on the location of the wireless subscriber and the land line end user to which switched access charges are applicable.
- 3.8. "Reciprocal Compensation Credit" for purposes of this Agreement and based on current traffic trends is a monetary credit for wireline to wireless traffic which is originated by a landline subscriber of Midco and terminates to a subscriber of Western Wireless within the LCA.

4. Reciprocal Traffic Exchange. Each Party shall reciprocally terminate CMRS local traffic originating on the other Party's network. Reciprocal traffic exchange addresses the exchange of CMRS traffic between Western Wireless subscribers and Midco end users. Either Party's CMRS local traffic may be routed through an intermediary for interconnection with the other Party's system. Any such arrangement may be modified by a separate agreement if both Parties wish to provide for two-way direct interconnection. Reciprocal traffic exchange per this Agreement covers only transport and termination services provided for Western Wireless only in association with CMRS services. Other services, including any direct interconnect arrangement established between the parties, shall be covered by a separate contract, tariff or price list.
5. Local and Non-Local Traffic. This Agreement is intended to address the transport and termination of local CMRS traffic between the Parties. Local CMRS traffic is subject to only the local transport and termination charge(s) set forth below and is not subject to switched access charges.

Ancillary traffic which includes CMRS traffic that is destined for ancillary services including, but not limited to, directory assistance, 911/E911, operator call termination (busy line interrupt and verify), 800/888, LIDB, and information services requiring special billing will be exchanged and charged in accordance with the appropriate tariffs, local or switched access.

Western Wireless agrees that if it uses the services provided by the Midco for the transport and termination of non-local CMRS traffic, Western Wireless shall be liable for interstate or intrastate switched access charges at the applicable tariff rates. The exchange of non-local CMRS traffic shall be considered de minimus and no billing will be issued by either party for non-local CMRS traffic.

6. Local Transport and Termination Rate. Western Wireless and Midco shall reciprocally and symmetrically compensate one another for CMRS local traffic terminated to their end users. The rate for the termination and transport of such traffic is set forth in Exhibit A attached hereto. Midco will be responsible for measuring the total monthly minutes of use terminating into its network from Western Wireless's network. Measured usage begins when Western Wireless's mobile switching office is signaled by the terminating end office that the call has been answered. Measured usage ends upon recognition by the mobile switching office of disconnection by the earlier of the Midco's customer or the disconnection signal from the terminating end office. Midco will only charge Western Wireless for actual minutes of use and/or fractions thereof of completed calls. Minutes of use will be aggregated at the end of the billing cycle and rounded to the nearest whole minute.
7. Reciprocal Compensation Credit. The monthly minutes of use terminated into Western Wireless's network from Midco's network for purposes of this Agreement, which will determine the reciprocal compensation credit due Western Wireless, will

be calculated using the formula set forth in Exhibit A. The resulting number shall be multiplied by the Local Transport and Termination Rate to determine the monthly Reciprocal Compensation Credit.

8. Billing, Payment, and Collection

8.1. Midco shall issue a monthly bill based on actual terminating usage recording of calls originated from Western Wireless, or Midco will use the terminating record report provided by Qwest if Qwest's network is used to terminate local CMRS traffic from Western Wireless to Midco.

8.2. Midco will include the Reciprocal Compensation Credit on Midco's monthly bill as a credit against amounts due and payable from Western Wireless to Midco.

8.3. Each party is responsible for bearing their own billing and collecting costs. No billing or collection fees will be assessed by one party to the other. Except as provided for in 8.5.

8.4. Payment is due within forty five (45) days of receipt of invoice on all undisputed amounts.

8.5. The billing party may charge, and the billed party shall pay, interest on any undisputed past due amounts at the lesser rate of one and one-half percent (1.5%) per month, or the highest rate allowed by law per month. Late payment charges will be included on monthly bills as assessed.

9. Release. In resolution of the Parties rights, and in further consideration of this Agreement, each Party releases, acquits and discharges the other Party of and from any claim, debt, demand, liability, action or cause of action arising from or relating to the payment of money for the transport and termination of traffic prior to the Effective Date of this Agreement.

10. Term. Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be two (2) years from the effective date and shall continue in effect for consecutive six (6) month terms until either Party gives the other Party at least sixty (60) days written notice of termination, which termination shall be effective at the end of the notice period.

11. Termination Upon Default. Either Party may terminate this Agreement in whole or in part in the event of a default by the other Party, provided however, that the non-defaulting Party notifies the defaulting Party in writing of the alleged default and that the defaulting Party does not cure the alleged default within thirty (30) calendar days of receipt of written notice thereof.

12. Liability Upon Termination. Termination of this Agreement, or any part hereof, for any cause shall not release either Party from any liability which at the time of

termination had already accrued to the other Party or which thereafter accrues in any respect for any act or omission occurring prior to the termination relating to an obligation which is expressly stated in this Agreement. The Parties' obligations under this Agreement which by their nature are intended to continue beyond the termination or expiration of this Agreement shall survive the termination of this Agreement.


13. General Responsibilities of Parties. Each Party is responsible to provide facilities within its network, which are necessary for routing and terminating traffic from the other Party's network.
14. Assignments, Successors and Assignees. Notwithstanding anything to the contrary contained herein, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their successors and assignees.
15. Force Majeure. Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control, including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, power blackouts, other major environmental disturbances or unusually severe weather conditions (collectively, a "Force Majeure Event").
16. No Third Party Beneficiaries. This Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.
17. Notices. Notices given by one Party to the other Party under this Agreement shall be in writing to the addresses of the Parties set forth above and shall be (i) delivered personally; (ii) delivered by express delivery service; (iii) mailed, certified mail or first class U.S. mail postage prepaid, return receipt requested; or (iv) delivered by telecopy.
18. Governing Law. For all claims under this Agreement that are based upon issues within the jurisdiction of the FCC, the Parties agree that remedies for such claims shall be governed by the FCC and the Communications Act of 1934, as amended. For all claims under this Agreement that are based upon issues within the jurisdiction of the State Public Utilities Commission, the parties agree that the jurisdiction for all such claims shall be with such Commission, and the remedy for such claims shall be as provided for by such Commission. In all other respects, this Agreement shall be governed by the domestic laws of the state of South Dakota without reference to conflict of law provisions.
19. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements, representations,

statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 25th day of January, 2003.

AGREED AND ACCEPTED BY:

WWC License L.L.C. ("Western Wireless")




Signature
Gene DeJordy

Printed Name
VP

Title
2/10/03

Date

Midcontinent Communications



Signature
STEVE GROSSER

Printed Name
SVP FINANCE

Title
2/3/03

Date

**Midcontinent Communications
Investor, LLC Managing Partner of
Midcontinent Communications**

Exhibit A
Reciprocal Transport and Termination Agreement
WWC License L.L.C. and Midcontinent Communications

LOCAL TRANSPORT AND TERMINATION RATE \$0.01 per MOU

RECIPROCAL COMPENSATION CREDIT – CALCULATION

Multiply the total monthly local minutes of use of CMRS traffic delivered from Western Wireless's network for termination into Midco's network by a factor of 0.30.

**Exhibit B
 Reciprocal Transport and Termination Agreement
 WWC License L.L.C. and Midcontinent Communications**

CARRIER INTERCONNECTION DATA

WWC License L.L.C. Operating Company Number (OCN)	South Dakota	5037
	North Dakota	5033
	Minnesota	5029
	Iowa	5026

Midcontinent Communications Operating Company Number (OCN)	7076
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Midcontinent Operating Areas

Exchange Name	NPA/NXX(s)	CLLI	Tandem(s)	Local Calling Area & EAS Exchange(s)
Sioux Falls	605-274	SXFLSDPSDS0	SXFLSDCO09T	201,221,241,251,254,275,306,310,321,322,323,328,330 331,332,333,334,335,336,338,339,351,357,359,360,361 362,366,367,370,371,373,376,413,444,509,521,575,595 610,728,731,759,782,929,940,941,965,977,978,988,529 582,446,543,428,594,368,498,743,767,528,757
Sioux Falls	605-275	SXFLSDPSDS0	SXFLSDCO09T	201,221,241,251,254,274,306,310,321,322,323,328,330 331,332,333,334,335,336,338,339,351,357,359,360,361 362,366,367,370,371,373,376,413,444,509,521,575,595 610,728,731,759,782,929,940,941,965,977,978,988,529 582,446,543,428,594,368,498,743,767,528,757
Madison	605-556	FRTSSD01H00	SXFLSDCO09T	256,270,271,291,427,480,636,489,586 482,483,485
Canton	605-558	CNTNSD01H00	SXFLSDCO09T	764,987,372

South Dakota Public Utilities Commission
WEEKLY FILINGS
For the Period of February 27, 2003 through March 5, 2003

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five business days of this report. Phone: 605-773-3705

ELECTRIC

EL03-006 In the Matter of the Filing by Otter Tail Power Company for Approval of a Contract with Deviations with the City of Egan.

Application by Otter Tail Power Company for approval of a contract with deviations with the City of Egan. The current municipal contract providing electrical service expires April 1, 2003. The new contract does not deviate from filed tariffs and this filing removes the contract from Otter Tail's list of contracts with deviations.

Staff Analyst: Dave Jacobson
Staff Attorney: Karen Cremer
Date Docketed: 03/03/03
Intervention Deadline: 03/14/03

EL03-007 In the Matter of the Filing by Otter Tail Power Company for Approval of a Contract with Deviations with the City of Nunda.

Application by Otter Tail Power Company for approval of a contract with deviations with the City of Nunda. The current municipal contract providing electrical service expires April 1, 2003. The new contract does not deviate from filed tariffs and this filing removes the contract from Otter Tail's list of contracts with deviations.

Staff Analyst: Dave Jacobson
Staff Attorney: Karen Cremer
Date Docketed: 03/03/03
Intervention Deadline: 03/14/03

EL03-008 In the Matter of the Filing by Otter Tail Power Company for Approval of a Contract with Deviations with the City of Hayti.

Application by Otter Tail Power Company for approval of a contract with deviations with the City of Hayti. The current municipal contract providing electrical service expires April 10, 2003. The new contract does not deviate from filed tariffs and this filing removes the contract from Otter Tail's list of contracts with deviations.

Staff Analyst: Dave Jacobson
Staff Attorney: Karen Cremer
Date Docketed: 03/03/03
Intervention Deadline: 03/14/03

EL03-009 In the Matter of the Joint Request for an Electric Service Rights Exception between the City of Plankinton and Central Electric Cooperative, Inc.

On March 4, 2003, the Public Utilities Commission received a joint request for approval of service territory designations from the City of Plankinton and Central Electric Cooperative. The City of

Plankinton has annexed land located on its southeast boundary for the purpose of building a new school with residential development. The land annexed is in the service territory of Central Electric. The parties have reached an agreement whereby Central Electric will serve the new school and the City will serve the balance of the annexed area.

Staff Analyst: Michele M. Farris
Staff Attorney: Kelly Frazier
Date Docketed: 03/04/03
Intervention Deadline: 03/21/03

TELECOMMUNICATIONS

TC03-054 In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and TW Wireless, L.L.C.

On February 28, 2003, the Commission received a Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and TW Wireless, L.L.C. According to the parties, this filing is an amendment to the original agreement approved by the Commission on February 11, 2000, in Docket TC99-123. The Amendment is made in order to add terms and conditions for the Single Point of Presence in the LATA, as set forth in Attachment 1 and Exhibit A and for Inter Local Calling Area as set forth in Attachment 2, attached to the Amendment. Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than March 20, 2003. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier
Date Docketed: 02/28/03
Initial Comments Due: 03/20/03

TC03-055 In the Matter of the Filing for Approval of a Reciprocal Transport and Termination Agreement between WWC License L.L.C. and Midcontinent Communications, Inc.

On March 3, 2003, the Commission received a Reciprocal Transport and Termination Agreement between Midcontinent Communications and Western Wireless for approval. According to the filing, the Agreement is made to put in place an arrangement for the mutual exchange and reciprocal compensation of local telecommunications traffic in accord with the Telecommunications Act of 1996, and is intended to supersede any previous arrangements between the parties relating to such traffic. Any party wishing to comment on the agreement may do so by filing written comments with the Commission and the parties to the agreement no later than March 24, 2003. Parties to the agreement may file written responses to the comments no later than twenty days after the service of the initial comments.

Staff Attorney: Kelly Frazier
Date Docketed: 03/03/03
Initial Comments Due: 03/24/03

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

IN THE MATTER OF THE FILING FOR)	ORDER APPROVING
APPROVAL OF A RECIPROCAL TRANSPORT)	AGREEMENT
AND TERMINATION AGREEMENT BETWEEN)	
WWC LICENSE L.L.C. AND MIDCONTINENT)	TC03-055
COMMUNICATIONS, INC.)	

On March 3, 2003, Midcontinent Communications, Inc. (Midcontinent) filed for approval by the South Dakota Public Utilities Commission (Commission) a reciprocal transport and termination agreement between WWC License L.L.C. (WWC) and Midcontinent.

On March 6, 2003, the Commission electronically transmitted notice of this filing to interested individuals and entities. The notice stated that any person wishing to comment on the parties' request for approval had until March 24, 2003, to do so. No comments were filed.

At its duly noticed April 1, 2003, meeting, the Commission considered whether to approve the agreement between Midcontinent and WWC. Commission Staff recommended approval.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, and the Federal Telecommunications Act of 1996. In accordance with 47 U.S.C. § 252(e)(2), the Commission found that the agreement does not discriminate against a telecommunications carrier that is not a party to the agreement and the agreement is consistent with the public interest, convenience, and necessity. The Commission unanimously voted to approve the agreement. It is therefore

ORDERED, that the Commission approves the agreement.

Dated at Pierre, South Dakota, this 5th day of April, 2003.

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: <u><i>Aldine Kolbo</i></u>
Date: <u><i>4/9/03</i></u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr

ROBERT K. SAHR, Chairman

Gary Hanson

GARY HANSON, Commissioner