

TC04-035

K7

TC04-035

DOCKET NO.

In the Matter of - IN THE MATTER OF THE FILING FOR
 APPROVAL OF A RECIPROCAL
 TRANSPORT AND TERMINATION
 AGREEMENT BETWEEN RURAL
 CELLULAR CORPORATION AND
 MIDCONTINENT COMMUNICATIONS

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
2/19/04	Filed and Rejected;
2/26/04	Weekly Filing;
4/5/04	Order Approving Agreement;
4/5/04	Docket Closed.

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February 17, 2004

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Pam Bonrud
Executive Secretary
Public Utilities Commission
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Pierre, SD 57501

RECEIVED
FEB 19 2004
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

RE: Midcontinent Communications
Our file: 0053

Dear Pam:

Enclosed please find an original and 10 copies of Reciprocal Compensation Agreements with Rural Cellular and Wireless Alliance for filing and approval. If you have any questions be sure to let me know.

Very truly yours.

MAY, ADAM, GERDES & THOMPSON LLP



BRETT M. KOENECKE

BMK:njh

Enclosures

cc: Mark Ayotte
Mary Lohnes

FEB 19 2004

Reciprocal Transport and Termination Agreement SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

This Reciprocal Transport and Termination Agreement (the "Agreement") is entered into by and between Rural Cellular Corporation ("CMRS Provider") with offices at 3905 Dakota Street S.W., P.O. Box 2000, Alexandria, Minnesota 56308 and Midcontinent Communications, a South Dakota General Partnership ("Carrier") with offices at 5001 W. 41st, Sioux Falls, South Dakota 57106. CMRS Provider and Carrier are each individually a "Party" and are together the "Parties" to this Agreement.

WHEREAS, CMRS Provider is licensed by the Federal Communications Commission ("FCC") as a Commercial Mobile Radio Service provider. Carrier is a local exchange carrier holding a certificate of authority to provide telecommunications services in the State of South Dakota.

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, and between each other's subscribers.

WHEREAS, Carrier and CMRS Provider agree to exchange wireline to wireless and wireless to wireline traffic for the benefit of the Parties. Services provided by Carrier to CMRS Provider under this Agreement are provided pursuant to the receiving Party's status as a CMRS Provider.

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 Act, and which is intended to supersede any previous arrangements between the Parties relating to such traffic.

WHEREAS, the Parties also wish to establish an arrangement that compensates Carrier for transiting Traffic (when applicable) that originates on CMRS Provider's network and which terminates on a third carrier's network.

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, CMRS Provider and Carrier hereby agree as follows:

1. Scope. This Agreement addresses the Parties' reciprocal compensation obligations as described in § 251(b)(5) of the Act. If CMRS Provider elects to replace the existing form of indirect interconnection with a two-way or one-way direct connection, the Parties agree to negotiate a separate interconnection agreement related to the provisioning and compensation for such facilities. 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 Commission. Such rights may include CMRS Provider's right to request unbundled network elements and a review of Carrier's rural telephone company exemption provided for under § 251(f)(1)(A) of the Act and Carrier's right to seek to maintain the rural exemption.

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 or state government authority. To the extent required by any

such subsequently prescribed law, rule, regulation or guideline, the Parties agree to negotiate in good faith toward an agreement to modify, in writing, any affected term and condition of this Agreement to bring them into compliance with such law, rule, regulation or guideline.

2.1. The Parties agree and understand that certain provisions in this Agreement are based on the FCC's First Report and Order, In the Matter of Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, rel. Aug. 8, 1996 ("FCC 1st Order") and the Second Report and Order and Memorandum Opinion and Order, In the Matter of the Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, rel. Aug. 8, 1996 ("FCC 2nd Order"). To the extent that certain of the rules contained in the FCC 1st Order and the FCC 2nd Order, or any other FCC Order adopted to implement the Act are ultimately deemed by the courts to be not effective, this Agreement shall be modified to comport with the final court decisions and subsequent FCC rules adopted to comply with the court's decisions.

2.2. The Parties further agree and understand that the rates for 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 Act is established and cost information or an acceptable cost proxy model which reasonably reflects the costs of providing the Local Transport and Termination services or Transit Services becomes available.

2.3. 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, including the Telecommunications Act of 1996, and as from time to time interpreted in the duly authorized rules and regulations of the FCC.

3.2. "CMRS" or "Commercial Mobile Radio Service" is as defined in the Act and the duly authorized rules and regulations of the FCC.

3.3. "Commission" means the South Dakota Public Utilities Commission.

3.4. "Local Calling Area" (LCA) means a geographic area defined by the MTA within which CMRS Provider provides CMRS services where local transport and termination rates apply as set forth in the FCC 1st Order and regulations promulgated thereunder.

3.5. "Local Traffic" means the completion of wireless to wireline and wireline to wireless Traffic which originates and terminates within the LCA based on the location of the connecting cell site serving the wireless subscriber and the central office for landline end-user.

3.6. "Major Trading Area" (MTA) means a geographic area established in Rand McNally's Commercial Atlas and Marketing Guide and used by the FCC in defining CMRS license boundaries for CMRS providers for purposes of Sections 251 and 252 of the Act.

3.7. "MOU" means a minute of use.

3.8. "Non-Local Traffic" means the completion of interMTA calls based on the location of the connecting cell site serving the wireless subscriber and the central office for the landline end-user and the completion of interMTA roaming traffic, as defined in FCC 1st Order, par. 1043, to which switched access charges are applicable.

3.9. "Reciprocal Compensation Credit" for purposes of this Agreement and based on current traffic trends means a monetary credit for wireline to wireless traffic which is originated by a landline subscriber of Carrier and terminates to a subscriber of CMRS Provider within the LCA.

3.10. "Traffic" means all Local Traffic and Non-Local Traffic that originates on one Party's network, and terminates on the other Party's network.

3.11. "Transit Traffic" means any Traffic that originates from one telecommunications carrier's network, transits Carrier's network substantially unchanged, and terminates to yet another telecommunications carrier other than Carrier.

3.12. "Transit Services" means the provision of transport facilities by Carrier that provide a transport function for Traffic originating from CMRS Provider and terminating to a telecommunications carrier other than Carrier.

3.13. "Termination" or "Terminate" means the switching of Local Traffic at the terminating carrier's end-office switch, or functionally equivalent facility, and the delivery of such Traffic to the called party.

3.14. "Transport" means the transmission and any necessary tandem switching by a Party of Local Traffic from the point of interconnection between the Parties to the terminating carrier's end-office switch or functionally equivalent facility that directly serves the called party.

4. Reciprocal Traffic Exchange. Each Party shall reciprocally Transport and Terminate on its network Traffic originating on the other Party's network. Reciprocal Traffic exchange addresses the exchange of Traffic between CMRS Provider's subscribers and Carrier's end-users and any Transit Services which may be provided by Carrier for Transit Traffic. Consistent with Carrier's current practice with CMRS Provider, either Party's Traffic may be routed through an intermediary for interconnection with the other Party's system. Reciprocal

Traffic exchange per this Agreement covers only Transport and Termination services or Transit Services provided 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. The Transport and Termination services or Transit Services provided hereunder are intended for wireless to wireline or wireline to wireless, but not wireline to wireline communications. Such services will not be used to terminate other types of traffic on Carrier's network (such as wireline originated traffic) and services used in violation hereof shall constitute a breach of this Agreement. In addition to any other remedies available, the Party whose services have been improperly used shall be entitled to recover the charges applicable to such traffic for the entire period of misuse. Any incidental services (e.g. directory assistance, operator services, etc.) will be billed at the standard rates for those services.

5. Local and Non-Local Traffic. This Agreement is intended to address the Transport and Termination of Traffic between the Parties and Transit Services to the extent applicable. Local Traffic is subject to the local Transport and Termination MOU charge set forth on Exhibit A and is not subject to switched access charges. Non-Local Traffic is subject to either Carrier's interstate or intrastate tariffed switched access charges and terms and conditions, whichever is applicable. Transit Traffic is subject to the provisions described in Section 7 below.

5.1. Ancillary traffic which includes wireless 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.

5.2. The Parties shall act in accordance with the FCC's orders and regulations for intercarrier compensation relating to Internet Traffic, including the ISP Remand Order. In the event Carrier elects to exchange ISP-bound Traffic with any local exchange carrier in the State subject to the interim compensation rates set forth in the ISP Remand Order (or any such lower rates for Transport and Termination of ISP-bound Traffic or bill-and-keep if ordered by the Commission), then Carrier agrees to provide written notice to CMRS Provider of any such election and to exchange all Local Traffic with CMRS Provider pursuant to this Agreement at the same rate.

5.3. The Parties agree that the amount of any Non-Local Traffic cannot be determined on an automated basis and is otherwise de minimus. The Parties further agree that the only compensation for such Non-Local Traffic will be in the form of the reciprocal Transport and Termination services provided by the other Party, and no billings will be issued by either Party for Non-Local Traffic.

6. Local Transport and Termination Rate. CMRS Provider and Carrier shall reciprocally and symmetrically compensate one another for Local Traffic terminated to their respective subscribers and end-user customers. The MOU rate for the Termination and Transport of such Local Traffic is set forth in Exhibit A attached hereto. Carrier will be responsible for measuring the total monthly minutes of use terminating into its network from CMRS Provider's network. Measured usage begins when CMRS Provider's mobile switching

office is signaled by the Carrier's 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 Carrier's customer or the disconnection signal from the terminating end office. Carrier will only charge CMRS Provider for actual measured 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. The Party collecting revenues shall be responsible for reporting and remitting all applicable taxes associated therewith.

7. Transit Services. If Carrier performs Transit Services, CMRS Provider shall compensate Carrier for originated Transit Traffic at the Transit Rate set forth on Exhibit A. Any billing to CMRS Provider for Transit Services shall be limited to the intermediate Transit Services from Carrier to the terminating telecommunications carrier. Carrier shall separately identify the amount of usage associated with Transit Traffic on any billing to CMRS Provider. Upon written request, Carrier shall provide to CMRS Provider the identity of the terminating carrier, the exchanges and route miles associated with any Transit Services which may be provided under this Agreement.

8. De Minimus Traffic. In the event the Traffic terminated on the Parties' respective networks is de minimus such that the total MOU for which either Party is entitled to compensation is less than 3,000 MOU for a three month period (or 1,000 MOU for a one month period if Carrier or CMRS Provider bills monthly), the Parties agree that the only compensation for such Traffic will be in the form of the reciprocal Transport and Termination services provided by the other Party, and no billings will be issued by either Party.

9. Reciprocal Compensation Credit. If CMRS Provider is unable to determine the amount of wireline to wireless Traffic it terminates from Carrier, the monthly minutes of use terminated into CMRS Provider's network from Carrier's network for purposes of this Agreement will be used to determine the Reciprocal Compensation Credit due CMRS Provider, which will be calculated using the formula set forth in Exhibit A.

9.1. The resulting number shall be multiplied by the MOU rate to determine the monthly Reciprocal Compensation Credit. The Reciprocal Compensation Credit for the Transport and Termination will appear on the monthly bill issued by Carrier as a credit against amounts due and payable from CMRS Provider to Carrier.

9.2. Should Traffic patterns change so that more wireline to wireless Traffic is being terminated by CMRS Provider, the Reciprocal Compensation Credit shall be changed to reflect such difference. The amended Reciprocal Compensation Credit shall be based on the results of a Traffic study conducted for a representative sample of calls within the Carrier's service area. If the Parties are unable to reach agreement on the adequacy of the sample, the methodology for the Traffic study, or the appropriate percentages to be used, either Party may request resolution of the dispute by the Commission.

10. Billing and Collection Fees. Carrier shall bill CMRS Provider on either a monthly or quarterly basis for services provided under this Agreement in accordance with the MOU rate set forth on Exhibit A. Carrier shall include sufficient detail in its invoices to enable

CMRS Provider to reasonably verify the accuracy of the usage and charges. CMRS Provider shall pay such invoices within thirty (30) days of receipt of the statement. In the event of a dispute over the amount of the invoice, CMRS Provider shall pay the undisputed portion and shall not be required to pay the disputed portion pending an investigation and resolution of the dispute.

10.1. In the event CMRS Provider elects to measure the wireline to wireless Traffic terminated to it by Carrier, CMRS Provider will directly invoice Carrier for such Traffic applying the MOU rate contained in Exhibit A rather than utilizing the Reciprocal Compensation Credit in Section 8. The billing and payment provisions and time periods set forth in this Section 9 shall apply if CMRS Provider elects to direct bill Carrier. In addition, CMRS Provider shall notify Carrier that it intends to direct bill for terminated Traffic at least sixty (60) days in advance of the first bill.

11. Effective Date. This Agreement is subject to approval by the Commission. CMRS Provider and Carrier will work cooperatively to take all steps necessary and proper to expeditiously prosecute a joint application before the Commission seeking approval of this Agreement. Each Party shall be responsible for their own costs and expenses incurred in obtaining approval of this Agreement from the Commission.

12. Term. Subject to the termination provisions contained in this Agreement, the term of this Agreement shall be one (1) year from the effective date and shall continue in effect for consecutive one (1) year terms until either Party gives the other Party at least ninety (90) days written notice of termination, which termination shall be effective at the end of the notice period.

13. 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.

14. 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.

15. Dispute Resolution Process. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, will be resolved by both Parties according to the procedures set forth below.

15.1. The Parties desire to resolve disputes arising out of this Agreement without litigation. Accordingly, the Parties agree to use the following alternative dispute resolution procedure with respect to any controversy or claim arising out of or relating to this Agreement or its breach, except for (i) an action seeking a temporary restraining

order or injunction related to the confidentiality provisions of Section 18 or to compel compliance with this dispute resolution process; or (ii) disputes that fall within the jurisdiction of the FCC or the Commission, unless the Parties agree at the time of the dispute to submit the matter to arbitration.

15.2. At the written request of a Party, each Party shall appoint within ten (10) business days after the date of the request, a knowledgeable, responsible representative to meet and negotiate in good faith for a period of forty-five (45) days after the request to resolve any dispute arising under this Agreement. The Parties intend that these negotiations be conducted by business representatives. The location, format, frequency, duration and conclusion of these discussions will be left to the discretion of the representatives. Upon mutual agreement, the representatives may utilize other alternative dispute resolution procedures such as private mediation to assist in the negotiations. Discussions and correspondence between the representatives for purposes of these negotiations will be treated as confidential information developed for purposes of settlement, exempt from discovery and production, which will not be admissible in the arbitration described below or in any lawsuit without the concurrence of both Parties. Documents identified in or provided with such communications, which are not prepared for purposes of the negotiations, are not so exempted and may, if otherwise admissible, be admitted in evidence in the arbitration or lawsuit.

15.3. If the negotiations do not resolve the dispute within forty-five (45) days after the initial written request, the Parties may raise such dispute to a court of competent jurisdiction, the FCC or Commission. Alternatively, the Parties may by mutual consent elect to submit such claim to either non-binding or mutual binding arbitration by a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association or such other rules to which the Parties may agree. Any arbitration mutually agreed upon by the Parties will be conducted in accordance with the procedures set out in those rules. Reasonable discovery shall be allowed and controlled by the arbitrator. The arbitration hearing shall be commenced within sixty (60) days of the demand for arbitration. The arbitration shall be held in the capital city of the State or as mutually agreed to by the Parties. The arbitrator shall control the scheduling so as to process the matter expeditiously. The arbitrator shall rule on the dispute by issuing a written opinion within thirty (30) days after the close of hearing. The times specified in this Section may be extended upon mutual agreement of the Parties or by the arbitrator upon a showing of good cause. The arbitrator shall not have authority to award punitive damages. Where both Parties consent to mutual binding arbitration, the decision of the arbitrator shall be final and binding upon the parties and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction.

15.4. Each Party shall bear its own costs of these procedures. The Parties shall equally split the fees of the arbitration and the arbitrator.

15.5. Neither Party shall terminate or suspend the provision of any service or other performance under this Agreement during the pendency of any dispute resolution or arbitration undertaken pursuant to this Section 15.

15.6. No arbitration demand or other judicial or administrative action, regardless of form, arising out of or related to this Agreement may be brought by either Party more than one (1) year after the cause of action arises.

16. General Responsibilities of Parties. Each Party is responsible to provide facilities within its respective network which are necessary for routing and terminating Traffic to and from the other Party's network. If a Party makes a change in its network which may materially affect the exchange of Traffic under this Agreement, the Party making the change shall provide at least ninety (90) days advance written notice of the nature of the change and when the change will occur.

17. Assignments, Successors and Assignees. A Party may not assign or transfer this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. Notwithstanding the foregoing, a Party may assign this Agreement, or any portion thereof, without consent to any entity that controls, is controlled by or is under common control with the assigning Party. Any such assignment shall not in any way affect or limit the rights and obligations of the Parties under this Agreement. The Agreement shall be binding upon and inure to the benefit of the Parties hereto and their lawful successors and assigns.

18. Confidentiality. The Parties to this Agreement recognize they or their authorized representatives may come into possession of confidential and/or proprietary data about each other's business or networks as a result of this Agreement. Each Party agrees to treat all such data and information as strictly confidential and to use such data and information only for the purpose of performance under this Agreement. Each Party agrees not to disclose data or information about the other Party's business without first securing the written consent of the Party, unless such disclosure is required by lawful subpoena or court order.

19. Business Records. Each Party is responsible for the accuracy of its data as submitted to the other Party. Upon reasonable notice, each Party or its authorized representative shall have the right to conduct an on-premise review of the relevant data possessed by the other Party to assure compliance with the provisions of this Agreement. The review will consist of any examination and verification of data involving records, systems, procedures and other information related to the services performed by either Party as it relates to charges or payments made in connection with this Agreement. Each Party's right to access information for a verification review purpose is limited to data not in excess of twelve (12) months in age. A Party's right to request a review is limited to once every twelve (12) months. The Party requesting a verification review shall fully bear its own costs associated with conducting the review. The Party being reviewed will provide reasonable access to necessary and applicable information at no charge to the reviewing Party during normal business hours.

20. 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 reasonable 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").

21. No Third Party Beneficiaries. This Agreement does not provide any person not a party, assignee or successor to this Agreement and shall not be construed to provide any such third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.

22. 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. Any such notice given under this Agreement shall be effective upon the receipt of the Party. Any Party may specify a different address by notifying the other Party in writing of such different address in the manner provided in this Section.

23. Governing Law. For all claims under this Agreement that are based upon issues within the jurisdiction of the FCC or governed by federal law, the Parties agree that remedies for such claims shall be governed by the FCC and the Act. For all claims under this Agreement that are based upon issues within the jurisdiction of the Commission or governed by state law, 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.

24. 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.

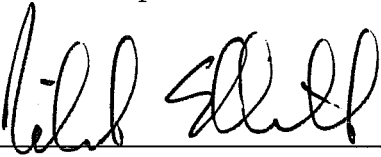
25. Amendments. This Agreement may not be modified or amended other than by a written instrument executed by both Parties. Any amendment, modification or supplement to this Agreement shall be filed with the Commission and approved by the Commission as may be required by applicable law.

26. Counterparts. The undersigned signatories represent they have the authority to execute this Agreement on behalf of their respective companies. This Agreement can be executed in separate parts which together will constitute a single, integrated Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 20 day of January, 2004.

“CMRS Provider”

Rural Cellular Corporation

By 
Title RICHARD EKSTRAND
Date PRESIDENT/CEO 1/20/04

“Carrier”

Midcontinent Communications,
a South Dakota General Partnership

By _____
Title _____

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 20 day of January, 2004.

“CMRS Provider”
Rural Cellular Corporation

“Carrier”
Midcontinent Communications,
a South Dakota General Partnership

By _____
Title _____
Date _____

By *[Signature]*
Title VICE PRESIDENT - PUBLIC POLICY

EXHIBIT A

Transport and Termination Rate

1. The Transport and Termination for Local Traffic under the Agreement shall be based on usage sensitive rate of \$0.0075 multiplied by the total minutes of use.

Reciprocal Compensation Credit – Calculation

1. The minutes of use of wireline to wireless Traffic for purposes of the Reciprocal Compensation Credit shall be calculated by multiplying the total monthly minutes of use of wireless to wireline Traffic delivered from CMRS Provider's network for termination into Carrier's network by a factor of 0.25.

Transit Traffic Rate

1. \$0.003 per MOU

South Dakota Public Utilities Commission

WEEKLY FILINGS

For the Period of February 19, 2004 through February 25, 2004

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: 605-773-3201

TELECOMMUNICATIONS

TC04-035 In the Matter of the Filing for Approval of a Reciprocal Transport and Termination Agreement between Rural Cellular Corporation and Midcontinent Communications.

On February 19, 2004, the Commission received a Filing for Approval of a Reciprocal Transport and Termination Agreement between Rural Cellular Corporation and Midcontinent Communications. According to the parties, the Agreement is a negotiated agreement between the parties for the purpose of putting in place an arrangement for the mutual exchange and reciprocal compensation of local telecommunications traffic in accordance with the Telecommunications Act of 1996, which 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 10, 2004. 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 Filed: 02/19/04
Initial Comments Due: 03/10/04

TC04-036 In the Matter of the Filing for Approval of a Reciprocal Transport and Termination Agreement between Wireless Alliance, LLC and Midcontinent Communications.

On February 19, 2004, the Commission received a Filing for Approval of a Reciprocal Transport and Termination Agreement between Wireless Alliance, LLC and Midcontinent Communications. According to the parties, the Agreement is a negotiated agreement between the parties for the purpose of putting in place an arrangement for the mutual exchange and reciprocal compensation of local telecommunications traffic in accordance with the Telecommunications Act of 1996, which 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 10, 2004. 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 Filed: 02/19/04
Initial Comments Due: 03/10/04

TC04-037 In the Matter of the Filing by Qwest Corporation for Approval of Statement of Generally Available Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services and Resale of Telecommunications Services (Fifth Revision).

On February 20, 2004, Qwest Corporation (Qwest) filed an updated Statement Of Generally Available Terms and Conditions for Interconnection, Unbundled Network Elements, Ancillary Services, and Resale of Telecommunications Services (SGAT) (Fifth Revision, dated February 20, 2004). On August 21, 2003, the Federal Communications Commission released its Triennial Review Order (TRO). The TRO substantially altered Qwest's obligations under Section 251 of the Telecommunications Act of 1996 to offer unbundled network elements. Many of these changes require modifications to Qwest's South Dakota SGAT. As a result, Qwest submitted this revision that, among other changes, includes revisions necessary to comply with the TRO. In addition to the changes required by the TRO, Qwest has made a number of miscellaneous changes to the South Dakota SGAT. Some changes reflect agreements reached with Competitive Local Exchange Carriers (CLECs) in other states in the Qwest region and which Qwest wishes to incorporate into the South Dakota SGAT. Other changes have been reviewed and approved by the Change Management Process for inclusion in SGATs throughout the Qwest region. Finally, Qwest has included changes to correct typographical and grammatical errors, punctuation and spelling, and capitalization of defined terms. Qwest requests that the Commission allow this version of the SGAT to go into effect no longer than 60 days after submission in accordance with 47 U.S.C. Section 252(f)(3).

Staff Analyst: Harlan Best
Staff Attorney: Karen Cremer
Date Filed: 02/20/04
Intervention Deadline: 03/12/04

TC04-038 In the Matter of the Petition of Santel Communications Cooperative, Inc. for Suspension of Intermodal Local Number Portability Obligations.

On February 25, 2004, Santel Communications Cooperative (Santel) filed a petition requesting the Commission to grant a suspension to Santel from porting numbers, wireless-to-wireless, as may be requested by Commercial Mobile Radio Services (CMRS).

Staff Analyst: Harlan Best
Staff Attorney: Karen Cremer
Date Filed: 02/25/04
Intervention Deadline: 03/12/04

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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)	
RURAL CELLULAR CORPORATION AND)	TC04-035
MIDCONTINENT COMMUNICATIONS)	

On February 19, 2004, Midcontinent Communications (Midcontinent) filed for approval by the South Dakota Public Utilities Commission (Commission) a reciprocal transport and termination agreement between Rural Cellular Corporation (Rural Cellular) and Midcontinent.

On February 26, 2004, 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 10, 2004, to do so. No comments were filed.

At its duly noticed March 23, 2004, meeting, the Commission considered whether to approve the agreement between Midcontinent and Rural Cellular. 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, 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: <u><i>Delaine Kalbo</i></u>
Date: <u>4/6/04</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Robert K. Sahr
ROBERT K. SAHR, Chairman

Gary Hanson
GARY HANSON, Commissioner