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BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

IN THE MATTER OF THE ESTABLISHMENT OF LECs' 2005 SWITCHED ACCESS REVENUE REQUIREMENTS

JOINT ANSWER OF LECs TO MIDCONTINENT'S PETITIONS TO INTERVENE

ALLIANCE COMMUNICATIONS COOP., INC	TC05-083
SWITFTEL COMMUNICATIONS	TC05-087
MIDSTATE COMMUNICATIONS	TC05-090
WESTERN TELEPHONE COMPANY	TC05-091
BERESFORD MUNICIPAL TELEPHONE COMPANY	TC05-092
ROBERTS COUNTY TELEPHONE COOPERATIVE	TC05-093
McCOOK COOPERATIVE TELEPHONE	TC05-094
KENNEBEC TELEPHONE COMPANY	TC05-095
SANTEL COMMUNICATIONS COOPERATIVE	TC05-097
TRI-COUNTY TELCOM, INC.	TC05-098
WEST RIVER TELECOMMUNICATIONS COOPERATIVE	TC05-109

COME NOW the above-named Local Exchange Companies ("LECs"), by their undersigned attorney, and jointly file this Answer to the Petitions of Midcontinent Communications ("Midcontinent") to Intervene in the above dockets.

1. LECs admit that Midcontinent is a certificated communications company, subject to the jurisdiction of the South Dakota Public Utilities Commission ("Commission").

2. Between the dates of June 21, 2005, and July 21, 2005, each of the above LECs filed a cost study with the Commission, in accordance with the Commission's current cost study rules. None of the LECs have withdrawn their initial cost studies. The LECs' minutes of use and final rates were adjusted subsequent to Local Exchange Carriers Association's ("LECA") withdrawal of Docket TC05-073, but the LECs' cost studies as filed have never been withdrawn.

3. The intervention deadlines in these dockets range from July 8, 2005, to August 5, 2005, and Midcontinent failed to intervene prior to expiration of said deadlines.

4. Pursuant to appropriate notice, the Commission held hearing on these dockets for the purpose of assessing initial filing fees on August 2, 2005, and August 18, 2005.

5. Intervener has taken no action in these dockets until filing of the current Petition(s) to Intervene, dated August 31, 2005.

6. ARSD 20:10:01:15.02 sets forth the test for allowance of late-filed intervention petitions:

A petition to intervene which is not timely filed with the Commission may not be granted by the Commission unless denial of the petition is shown to be detrimental to the public interest or to be likely to result in a miscarriage of justice. (Emphasis added.)

7. Midcontinent has failed to sustain its burden for this Commission to grant late-filed Petitions to Intervene in these dockets.

8. Contrary to Midcontinent's assertion that the outcome of these dockets affects "a substantial segment of telephone traffic in the state," Midcontinent pays very limited originating switched access charges to the LECs herein, and no terminating access charges. Thus, given the small amount of intrastate originating traffic carried by Midcontinent, the outcome of these dockets could not be deemed to have so great an impact on Midcontinent as to rise to the level of "detrimental to the public interest" or a "miscarriage of justice" if its Petition to Intervene is denied.

9. Because Midcontinent has not been a party to these proceedings, it would have no way of knowing if anything of substance has occurred in the LECs' dock-

ets, and even if that were the case, which LECs do not concede, that is not a sufficient reason to allow a late-filed intervention.

10. The LECs would be prejudiced if Midcontinent's late-filed Petition in these dockets is granted. To allow a new party to intervene in dockets after the intervention deadline has passed would cause further delays in the proceedings, and subject LECs to the further expense of additional discovery requests from the new party. This is exactly the kind of prejudice that enforcement of an intervention deadline precludes.

11. The only stated purpose of Midcontinent's Petition is to challenge the Commission's current switched access rules:

Midcontinent verily believes that the Commission's switched access cost model is flawed permitting costs to be overstated, both because of the inappropriate use of known and measurable changes, as well as mistakes in the underlying cost support for the computation.

12. LECs have filed their cost studies in accordance with the current rules. To allow Midcontinent to intervene and attempt to change those rules would be prejudicial to LECs, because it would force costly revisions or refilings of the current studies.

13. LECs further object to the Petition to Intervene because the LECs' individual cost study dockets are not the proper forums to determine whether the Commission's switched access cost model is flawed. The cost model, use of known and measurable changes, and the underlying cost support for the cost model, are all part of the current rules. LECs have appropriately followed the rules, and the LECs and the Commission are bound by the current rules. To change the rules within this docket would not be appropriate and would be prejudicial to not only the LECs responding hereto, but to other LECs who are not a party to these dockets.

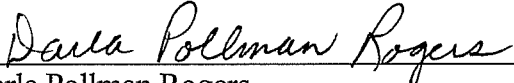
14. LECs are further prejudiced by Midcontinent's Petition the Intervene because of Midcontinent's employment of experts "to study the Commission's cost model, who will examine the cost figures underlying the proposed LECA tariff." The involvement of experts in these dockets, and conduct of additional discovery, will further delay approval of the cost studies, which would have a significant and adverse financial impact on the LECs.

15. This Commission's denial of Midcontinent's late-filed Petitions in these dockets will prevent LECs from prejudice caused by further delays, and such prejudice should not be permitted when Midcontinent has other avenues to achieve its stated purpose of questioning the Commission's switched access cost model.

16. This Commission's denial of Midcontinent's late-filed petitions in these dockets would not result in a miscarriage of justice or detriment to the public interest because Midcontinent is not left without recourse. There are other more appropriate methods for Midcontinent to have its experts review the Commission's cost model. Midcontinent can petition this Commission to open a rulemaking docket to investigate and ultimately revise the switched access rules.

WHEREFORE, the LECs respectfully request this Commission to deny Midcontinent's late-filed intervention(s).

Respectfully submitted this 15<sup>th</sup> day of Sept., 2005.

  
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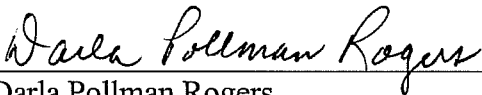
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the JOINT ANSWER OF LECs TO MIDCONTINENT'S PETITIONS TO INTERVENE was served via the method(s) indicated below, on the fifteenth day of September, 2005, addressed to:

Karen Cremer, Staff Attorney	( X )	First Class Mail
South Dakota Public Utilities Commission	( )	Hand Delivery
500 East Capitol Avenue	( )	Facsimile
Pierre, South Dakota 57501	( )	Overnight Delivery
	( )	E-Mail

David A. Gerdes	( X )	First Class Mail
May, Adam, Gerdes & Thompson	( )	Hand Delivery
P. O. Box 160	( )	Facsimile
Pierre, South Dakota 57501	( )	Overnight Delivery
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Dated this fifteenth day of September, 2005.

  
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