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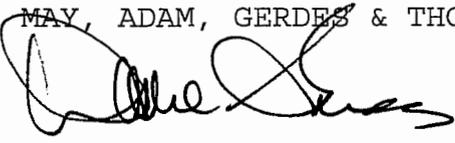
RE: **LNP PETITIONS; REQUESTED EXTENSIONS**
Docket TC05-137
Our file: 0053

Dear Pam:

Accompanying this letter are an original and 10 copies of Midcontinent's Opposition to Petitioners' Motion to Limit Issues in the above-referenced docket. Please file the enclosures. With a copy of this letter, service by mailing has been made upon the service list.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP


DAVID A. GERDES

DAG:mw

Enclosures

cc/enc: Service List
Nancy Vogel
Mary Lohnes

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OCT 31 2005

SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

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

IN THE MATTER OF THE JOINT) DOCKET TC05-137
PETITION FOR EXTENSION OF)
SUSPENSION DATE AND THE DATE TO)
FILE FURTHER SUSPENSION REQUEST)

**MIDCONTINENT'S OPPOSITION TO PETITIONERS'
MOTION TO LIMIT ISSUES**

Midcontinent Communications ("Midcontinent") opposes Petitioners' motion to limit the scope of issues to the extent that it would affect intramodal LNP, as follows:

1. The Petitioners opening this docket ("ILEC Petitioners")¹ have filed with the Commission a request to extend the date by which the ILEC Petitioners must file their requests to extend suspension of the LNP requirement and extend the date of the LNP suspensions granted to each petitioner. Now they have filed a motion to further limit the scope of the issues in this proceeding. The reasons and authorities relied upon by the ILEC Petitioners pertain solely to intermodal LNP. No good reason exists to grant the requested extensions, nor to limit the scope of issues, so as not to address intramodal LNP. Stated simply, intramodal LNP is different.

2. The Commission is very familiar with this issue. The issue was addressed in the previous docket on this subject, TC04-054, and for good reason the Commission treated the issue of intramodal LNP differently than intermodal LNP. In paragraph 21 of its Amended Final Decision and Order in Docket TC04-054 ("ITC Final Decision and Order") the Commission specifically found ". . . that with respect to providing interim intramodal number portability in Webster and Waubay exchanges to Midcontinent, ITC has not met

¹TC04-025 Kennebec; TC04-038 Santel; TC04-044 Sioux Valley; TC04-045 Golden West et al; TC04-046 Armour et al; TC04-047 Swiftel; TC04-048 Beresford Municipal; TC04-049 McCook Cooperative; TC04-050 Valley Telecom; TC04-051 Faith Municipal; TC04-052 Midstate; TC04-053 Western; TC04-054 Interstate; TC04-055 Alliance/Splitrock; TC04-056 Roberts County/RC; TC04-060 Venture; TC04-061 West River Coop.; TC04-062 Stockholm-Strandburg; and TC04-084 Tri-County.

the public interest or adverse economic impact criteria." The Commission in its order went on to order that interim LNP be provided as agreed to by the parties in their settlement agreement and that the parties would continue to negotiate to determine an economically reasonable solution to the issue.

3. The parties have continued in good faith to attempt to find a solution to the problem. They are now at loggerheads. The parties had thought that a double call forwarding process would prove workable. However, Midcontinent has now been advised that the process thought workable is outside recommended industry practices, constitutes "manipulation" of the NXX and is contrary to industry practice and rule. Thus, the parties are back to square one. In its present form, interim portability measures do not permit Midcontinent customers to have caller ID. This severely hampers Midcontinent's ability to secure new customers.

4. As the testimony in Docket TC04-054 showed, ITC has deployed facilities in Webster and Waubay to offer cable television and broadband services in competition with Midcontinent. Of course, the 1996 Telecommunications Act had as one of its purposes the fostering of competition in the local loop. However, given the present circumstance, Midcontinent is unable to compete on a level playing field with ITC because of ineffective means to implement local number portability offering service on the same level offered by ITC. The FCC has never entered an order affecting the current obligation of ILECs to offer long-term LNP. It is time for the Commission to take this situation up again and provide equity and fairness to Midcontinent. Midcontinent has attempted in good faith to make the interim LNP work, and it has not. Failing this, ITC must meet its responsibilities under the 1996 Act and FCC rules for LNP.

CONCLUSION

To the extent that ITC's motion to limit the scope of issues applies to intramodal LNP, it should be denied. ITC has a responsibility to provide the service, unaffected by any order of the FCC. The parties entered into a settlement agreement in good faith expecting that interim LNP measures would work. They do not work yet ITC enjoys the upper hand in competition with Midcontinent. In fairness, that situation should not be allowed to continue further.

Dated this 31 day of October, 2005.

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CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 31 day of October, 2005, he mailed by United States mail, first class postage thereon prepaid, a true and correct copy of the foregoing in the above-captioned action to the following at their last known addresses, to-wit:

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