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March 21, 2008

Ms. Patricia Van Gerpen
SD Public Utilities Commission
500 E Capitol Ave
Pierre SD 57501

RE: In the Matter of the Opposition of Vivian Telephone Company to Petition to Intervene filed by Midcontinent Communications
Docket No. TC08-015


Dear Patty:

Attached for filing in the above docket please find Vivian Telephone Company's Opposition to Midcontinent's Petition to Intervene. By copy of this letter, service is intended on the parties identified on the Certificate of Service.

If you have any questions, please contact me.

Sincerely yours,

Riter, Rogers, Wattier & Northrup, LLP

By: 
Darla Pollman Rogers

DPR/lma
Enclosure
cc: Client

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

In the Matter of the Petition)	
of Vivian Telephone Company)	
for Modification of Section 251(b)(2))	Docket No. TC08-015
of the Communications Act of 1934,)	
as amended)	

**OPPOSITION OF VIVIAN TELEPHONE COMPANY TO PETITION TO INTERVENE
FILED BY MIDCONTINENT COMMUNICATIONS (MIDCONTINENT)**

1. On February 8, 2008, Vivian Telephone Company (Vivian) filed with the Commission a Petition for Suspension or Modification of its obligations as a local exchange carrier in connection with the provisioning of intermodal (wireline to wireless) local number portability (LNP) and LNP to interconnected Voice over Internet Protocol (VoIP) providers. Vivian has requested immediate suspension of these obligations.

2. On February 29, 2008, Midcontinent Communications (Midcontinent) filed a Petition to Intervene. Midcontinent states that it is a “certificated telecommunications carrier under the jurisdiction of the Commission, providing competitive local exchange service and long distance service throughout the state in both rural and non-rural local exchanges.” Midcontinent Petition at page 1, para. 1. Midcontinent alleges that as a “local exchange carrier any action by the Commission dealing with local number portability, if too broadly fashioned, will potentially have a direct financial impact upon Midcontinent and its ability to do business in the state.” Midcontinent Petition at page 1, para. 3.

3. Vivian objects to allowing Midcontinent to intervene. In its Order dated February 6, 2007, in Docket TC06-181, the Commission found that a proceeding involving a petition for suspension or modification of Section 251(b) requirements is a contested case. The standard for

intervention in a contested case is set forth in the statutes of the State of South Dakota as well as the Administrative Rules of South Dakota.

Specifically, SDCL § 1-26-17.1 provides:

A person who is not an original party to a contested case and whose pecuniary interest would be directly and immediately affected by the agency's order made upon the hearing may become a party to the hearing by intervention, if timely application therefore is made.

The South Dakota Public Utilities Commission has adopted Administrative Rules that generally address petitions to intervene. ARSD § 20:10:01:15:05 sets forth what a Petitioner filing for intervention must show:

That the petitioner is specifically deemed by statute to be interested in the matter involved, that the petitioner is specially declared by statute to be an interested party to the proceeding, or that by the outcome of the proceeding the petitioner will be bound and affected either favorably or adversely with respect to an interest peculiar to the petitioner as distinguished from an interest common to the public or to the taxpayers in general.

Under either standard, Midcontinent has failed to meet the standards to be allowed to intervene.

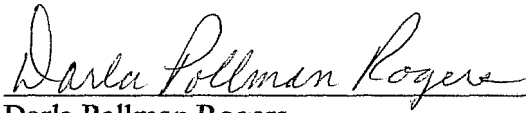
4. Vivian's Petition, on its face, is limited to its obligation in connection with the provisioning of LNP to wireless carriers and interconnected VoIP providers. Midcontinent alleges that it is a telecommunications carrier providing competitive local exchange service and long distance service. On its face, therefore, Vivian's Petition does not impact or affect any obligation to provide LNP to Midcontinent as a non-wireless telecommunications carrier. Accordingly, Midcontinent will not be "bound and affected either favorably or adversely with respect to an interest peculiar to the Petitioner as distinguished from an interest common to the public or to the taxpayers in general."

5. Further, Midcontinent does not demonstrate any pecuniary interest and has no pecuniary interest that would be directly and immediately affected by any decision made in this case and therefore Midcontinent should not be allowed to intervene.

WHEREFORE, Vivian respectfully requests that the Petition to Intervene of Midcontinent be denied.

DATED this 21st day of March, 2008.

VIVIAN TELEPHONE COMPANY



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CERTIFICATE OF SERVICE

I hereby certify that an original of the OPPOSITION OF VIVIAN TELEPHONE COMPANY TO PETITION TO INTERVENE FILED BY MIDCONTINENT COMMUNICATIONS (MIDCONTINENT), dated March 21, 2008, filed in PUC Docket TC08-015, was served upon the PUC electronically on that same date, directed to the attention of:

Ms. Patty Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre SD 57501
patty.vangerpen@state.sd.us

A copy was sent by electronic mail and U.S. Postal Service First Class mail to each of the following individuals:

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