



Robert C. Riter, Jr.  
Darla Pollman Rogers  
Jerry L. Wattier  
Margo D. Northrup

Associate:  
Lindsey Riter-Rapp

Of Counsel:  
Robert D. Hofer

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 McCook Cooperative Telephone Company, Tri-County Telcom to Petition to Intervene filed by Midcontinent Communications  
Docket No. TC08-020

Dear Patty:

Attached for filing in the above docket please find McCook Cooperative Telephone Company, Tri-County Telcom'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

Law Office  
Riter, Rogers, Wattier, & Northrup, LLP  
Phone: 605-224-5825 • Fax: 605-224-7102 • [www.riterlaw.com](http://www.riterlaw.com)  
319 South Coteau Street • P.O. Box 280 • Pierre, South Dakota 57501-0280

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

In the Matter of the Petition )  
of McCook Cooperative Telephone )  
Company, Tri-County Telcom for )  
Suspension or Modification of )  
Section 251(b)(2) of the )  
Communications Act of 1934, )  
as amended )

Docket No. TC08-020

**OPPOSITION OF MCCOOK COOPERATIVE TELEPHONE COMPANY, TRI-  
COUNTY TELCOM TO PETITION TO INTERVENE FILED BY MIDCONTINENT  
COMMUNICATIONS (MIDCONTINENT)**

1. On February 8, 2008, McCook Cooperative Telephone Company and Tri-County Telcom (collectively referred to as McCook) 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. McCook 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. McCook 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. McCook'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, McCook'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

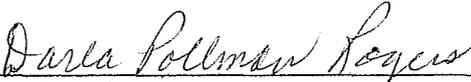
respect to an interest peculiar to the Petitioner as distinguished from an interest common to the public or to the taxpayers in general.”

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

DATED this 21<sup>st</sup> day of March, 2008.

**MCCOOK COOPERATIVE TELEPHONE  
COMPANY, TRI-COUNTY TELCOM**

  
\_\_\_\_\_  
Darla Pollman Rogers  
Riter, Rogers, Wattier & Northrup, LLP  
319 South Coteau – PO Box 280  
Pierre SD 57501-0280

CERTIFICATE OF SERVICE

I hereby certify that an original of the OPPOSITION OF MCCOOK COOPERATIVE TELEPHONE COMPANY, TRI-COUNTY TELCOM TO PETITION TO INTERVENE FILED BY MIDCONTINENT COMMUNICATIONS (MIDCONTINENT), dated March 21, 2008, filed in PUC Docket TC08-020, 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](mailto: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:

Rolayne Ailts Wiest  
Public Utilities Commission  
State of South Dakota  
500 East Capitol Avenue  
Pierre, SD 57501  
[rolayne.wiest@state.sd.us](mailto:rolayne.wiest@state.sd.us)

Harlan Best, Staff Analyst  
Public Utilities Commission  
State of South Dakota  
500 East Capitol Avenue  
Pierre, SD 57501  
[harlan.best@state.sd.us](mailto:harlan.best@state.sd.us)

Mr. Stephen Rowell  
Alltel Communications Inc  
One Allied Dr  
Little Rock, AR 72202  
[stephen.b.rowell@alltel.com](mailto:stephen.b.rowell@alltel.com)

Ms. Linda Godfrey  
Verizon Wireless  
2785 Mitchell Dr MS 7-1  
Walnut Creek, CA 94598  
[linda.godfrey@verizonwireless.com](mailto:linda.godfrey@verizonwireless.com)

Bryan Roth  
General Manager  
McCook Cooperative Telephone  
PO Box 630  
Salem SD 57078  
[bkroth@triotel.com](mailto:bkroth@triotel.com)

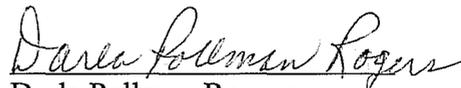
Mr. David Gerdes  
Attorney at Law  
May Adam Gerdes & Thompson LLP  
PO Box 160  
Pierre SD 57501  
[dag@magt.com](mailto:dag@magt.com)

Mr. Talbot J. Wiczorek  
Attorney at Law  
Gunderson Palmer Goodsell & Nelson  
P.O. Box 8045  
Rapid City, SD 57709-8045  
[tjw@gpgnlaw.com](mailto:tjw@gpgnlaw.com)

Mr. Richard D. Coit  
Executive Director and General Counsel  
SDTA  
PO Box 57  
Pierre SD 57501-0057  
[richcoit@sdtaonline.com](mailto:richcoit@sdtaonline.com)

Mr. Dennis Duncan  
Attorney at Law  
Zimmer Duncan and Cole  
P.O. Box 550  
Parker, SD 57053  
[dlduncan@zdcclaw.com](mailto:dlduncan@zdcclaw.com)

Mr. Philip Schenkenberg  
Attorney at Law  
Briggs and Morgan P.A.  
80 South Eighth Street  
2200 IDS Center  
Minneapolis MN 55402  
[pschenkenberg@briggs.com](mailto:pschenkenberg@briggs.com)

  
Darla Pollman Rogers