



South Dakota Telecommunications Association
PO Box 57 ■ 320 East Capitol Avenue ■ Pierre, SD 57501
605/224/7629 ■ Fax 605/224/1637 ■ www.sdtaonline.com

South Dakota Telecommunications Association

September 5, 2008

Ms. Patty Van Gerpen, Executive Director
South Dakota Public Utilities Commission
500 East Capitol Ave.
State Capitol Building
Pierre, SD 57501

RE: Docket TC08-105, Application of Midcontinent Communications to Provide Local
Exchange Services in a Rural Service Area

Dear Ms. Van Gerpen:

Enclosed for filing in the above referenced docket you will find the electronic original of a
"SDTA Petition to Intervene."

As is evidenced by the Certificate of Service attached to the Petition, service has been made on
other parties to the docket.

Thank you for your assistance in filing and distributing copies of this Petition.

Sincerely,

A handwritten signature in black ink, appearing to read "R. D. Coit", written over a horizontal line.

Richard D. Coit
SDTA Executive Director and General Counsel

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

| | | |
|--|---|----------------------------|
| IN THE MATTER OF THE APPLICATION OF |) | |
| MIDCONTINENT COMMUNICATIONS |) | |
| TO PROVIDE LOCAL EXCHANGE SERVICES IN |) | Docket No. TC08-105 |
| A RURAL SERVICE AREA |) | |

SDTA Petition to Intervene

The South Dakota Telecommunications Association ("SDTA") hereby petitions the Commission for intervention in the above captioned proceeding pursuant to SDCL 1-26-17.1 and ARSD §§ 20:10:01:15.02, 20:10:01:15.03 and 20:10:01:15.05. In support hereof, SDTA states as follows:

1. SDTA is an incorporated organization representing the interests of numerous cooperative, independent and municipal telephone companies operating throughout the State of South Dakota.

2. On or about August 14, 2008, Midcontinent Communications, hereinafter referred to as "Midcontinent" filed an Application with this Commission seeking an amendment to its prior local exchange service certification received from this Commission. Specifically, with its new Application, Midcontinent seeks authorization to provide competitive local exchange services in the exchanges of Crooks and Baltic, exchanges served by and existing within the rural service area of Alliance Communications Cooperative, Inc. ("Alliance").

3. The Midcontinent Application fails to give any clear indication of whether Midcontinent will be able to satisfy the rural service area protection/safeguard that is provided for under 47 U.S.C. § 253(f) and also SDCL § 49-31-73. Under 47 U.S.C. § 253(f), states may "require a telecommunications carrier that seeks to provide telephone exchange service or exchange access in a service area served by a rural telephone company to meet the

requirements in section 214(e)(1) for designation as an eligible telecommunications carrier for that area before being permitted to provide such service.” The South Dakota Legislature has also imposed this protection/safeguard as a condition on the certification of competitive local exchange carriers in rural telephone company service areas through the enactment of SDCL § 49-31-73. This Commission has more specifically defined the requirements imposed on competitive carriers pursuant to these federal and state statutes through the adoption of ARSD §§ 20:10:32:15 through 20:10:32:19.

4. Midcontinent’s filing presents several issues to this Commission that are of interest to all SDTA member companies. SDTA is particularly concerned that this Commission in its review of Midcontinent’s Application seek to ensure full compliance with the protection/safeguard referenced above that recognizes the special circumstances faced by rural telephone companies in making local exchange service universally available in high cost rural areas. The Application, as filed, indicates that Midcontinent does not intend to provide service throughout the entirety of Alliance’s existing rural service area or study area, but instead will be limiting its local service offerings to the Crooks and Baltic exchanges served by Alliance. Further, with respect to the Crooks and Baltic exchanges, specifically, it is unclear from the Application how Midcontinent would in fact meet the additional service obligations described in ARSD § 20:10:32:15 throughout the geographic reaches of even these two exchanges. On page 5 of its Application, Midcontinent simply states that it is “able to satisfy the local exchange service obligations provided in ARSD 20:10:32:10, as well as those provided in 47 U.S.C. § 214(e)(1).” No specific information is provided indicating how this would be accomplished. It is only indicated that “[i]n the areas applied for (the Crooks and Baltic exchanges) Midcontinent intends to provide local exchange service where facilities are available and provisions through an interconnection agreement with Alliance.” (Application p. 12).

5. In regards to the additional service obligations imposed on competitive carriers seeking to enter rural service areas, a process for waiver is provided under the state statutes (SDCL § 49-31-73) and the Commission's administrative rules (ARSD § 20:10:32:18). Pursuant to this process, however, the Commission may only grant the waiver if, after notice and hearing pursuant chapter 1-26, it is established by a preponderance of the evidence that the waiver "would not adversely impact universal service, that quality of service would be continued, and that it would otherwise be in the public interest." Midcontinent also indicates on page 5 of its Application that it is requesting such a waiver "to the extent that service of less than the entire study area of Alliance requires a waiver . . .", yet no supporting information is supplied within the Application indicating that the granting of such a waiver would be consistent with these legal standards.

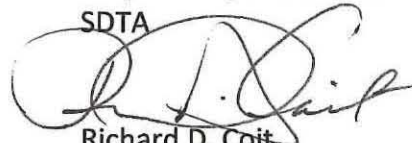
6. Given these and related issues, all of the SDTA member companies are interested in this proceeding and stand to be affected by the Commission's decisions herein. SDTA seeks intervention in this proceeding based on the interest of Alliance, an SDTA member, and also the interest of other SDTA member companies which operate as incumbent local exchange carriers and "rural telephone companies" and are likely to be "bound and affected favorably or adversely" by decisions made in this proceeding. (See ARSD § 20:10:01:15.05).

7. Based on all of the foregoing, SDTA alleges that it is an interested party in this matter and would seek intervening party status

Dated this 5th day of September, 2008.

Respectfully submitted:

SDTA



Richard D. Coit

Executive Director and General Counsel

CERTIFICATE OF SERVICE

I hereby certify that an original of the Petition to Intervention, dated June 17th, 2008, filed in PUC Docket TC08-089 was served upon the PUC electronically, directed to the attention of:

Ms. Patty Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501

A copy was also sent by e-mail and/or US Postal Service First Class mail to each of the following individuals:

David A. Gerdes
Attorney for Midcontinent Communications
503 South Pierre Street
P.O. Box 160
Pierre, SD 57501-0160

Karen Cremer, Staff Counsel
SD Public Utilities Commission
State Capitol Building
Pierre, SD 57501

Terri LaBrie Baker, Staff Analyst
SD Public Utilities Commission
State Capitol Building
Pierre, SD 57501

Ryan J. Taylor
Meredith A. Moore
Cutler & Donahoe, LLP
100 North Phillips Ave., 9th Floor
Sioux Falls, SD 57104



Richard D. Coit, General Counsel
South Dakota Telecommunications Association
PO Box 57
320 East Capitol Avenue
Pierre, SD 57501-0057