

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

IN THE MATTER OF THE APPLICATION) TC08-105
OF MIDCONTINENT COMMUNICATIONS)
TO PROVIDE LOCAL EXCHANGE SERVICE)
IN A RURAL SERVICE AREA)

**MIDCONTINENT'S AMENDED MOTION TO FIND
RURAL EXEMPTION WAIVED OR
TO TERMINATE RURAL EXEMPTION UNDER 47 USC § 251(f)(1)(B)**

COMES NOW Midcontinent Communications ("Midcontinent"),
Petitioner in this docket, and moves the Commission, as follows:

A. To find that Alliance Communications ("Alliance"), the
incumbent carrier in the Crooks and Baltic Exchanges, has waived
its right to the rural exemption under the Communications Act of
1934 as amended by the Telecommunications Act of 1996 ("Act"),
as follows:

1. Midcontinent has made a *bona fide* request to Alliance
by notice dated August 14, 2008, appearing as Exhibit D of the
Application for Certificate of Authority in this matter.
Alliance, through its counsel, has contested the request for
interconnection and argued that it is not a *bona fide* request
for not having conformed to the letter of ARSD 20:10:32:37. As
a consequence, Midcontinent has served upon Alliance a

supplemental request for interconnection, which is filed in the docket and a copy of which is attached as Exhibit A.

2. Midcontinent has alleged in the application that Alliance has embarked upon the provision of video programming in the geographical area including Crooks and Baltic. Under 47 U.S.C. § 251(f)(1)(C) the exemption provided in 47 U.S.C. § 251(f)(1)(A) therefore does not apply to Alliance. Midcontinent believes that a hearing on the merits will disclose facts proving that Alliance is in fact engaging in the provision of video programming in the Crooks and Baltic exchange areas, and that therefore the rural exemption does not apply to those exchanges.

Should the Commission fail to find that the rural exemption has been waived, to find that (i) Alliance has received a *bona fide* request for interconnection, services, or network elements, and (ii) that the request is not unduly economically burdensome, is technically feasible and is consistent with 47 U.S.C. § 254, pursuant to 47 U.S.C. § 251(f)(1)(B).

WHEREFORE Midcontinent prays that the Commission hold an evidentiary hearing on the application and this motion, and find that the application meets all the requirements of law, and

further find that Midcontinent satisfies the service requirements imposed on eligible telecommunications carriers pursuant to 47 U.S.C. § 214(a)(1) and applicable Federal regulations, that Midcontinent has made a *bona fide* request to Alliance to provide service in the Crooks and Baltic exchanges and that by engaging in the provision of video programming as an incumbent carrier, Alliance has waived its right to the rural exemption found in 47 U.S.C. § 251(f)(1)(A); or that the rural exemption be terminated under 47 U.S.C. § 251(f)(1)(B).

Dated this 20th day of November, 2008.

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

DAVID A. GERDES

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P.O. Box 160

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CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 20th day of November, 2008, 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 his last known address, to-wit:

Alliance Communications Cooperative, Inc.
Attention: Don Snyders, General Manager
P.O. Box 349
Garretson, South Dakota 57030

and by e-mail to:

PATRICIA VAN GERPEN, EXECUTIVE DIRECTOR
SD PUBLIC UTILITIES COMMISSION
patty.vangerpen@state.sd.us

KAREN E CREMER, STAFF ATTORNEY
SD PUBLIC UTILITIES COMMISSION
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David A. Gerdes

**BEFORE THE PUBLIC UTILITIES COMMISSION
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IN THE MATTER OF THE APPLICATION) TC08-105
OF MIDCONTINENT COMMUNICATIONS)
TO PROVIDE LOCAL EXCHANGE SERVICE)
IN A RURAL SERVICE AREA)

**MIDCONTINENT'S SUPPLEMENTAL NOTICE OF APPLICAIION
TO PROVIDE LOCAL EXCHANGE SERVICE AND
REQUEST FOR INTERCONNECTION**

TO: ALLIANCE COMMUNICATIONS COOPERATIVE, INC., ATTENTION DON
SNYDERS, GENERAL MANAGER, P.O. BOX 349, GARRETSON, SOUTH
DAKOTA, 57030

YOU WILL PLEASE TAKE NOTICE that pursuant to ARSD
20:10:32:04 the undersigned applies to the Commission for a
Certificate of Authority to provide local exchange service in a
portion of the geographic area wherein you provide local
exchange service. A copy of the application was previously
provided to you, to which reference should be made for further
particulars.

YOU WILL PLEASE TAKE FURTHER NOTICE that the undersigned
requests interconnection pursuant to 47 U.S.C. 251(f)(1)(A).
Midcontinent is applying to provide competitive local exchange
and long distance services in the Crooks and Baltic exchanges.
Midcontinent's application proposes to use the hybrid fiber coax
(HFC) network of its cable plant to provide primary transport
for residential and commercial telephone services. In
compliance with ARSD 20:10:32:37, Midcontinent provides the

EXHIBIT A

following information as its best reasonable estimate of information concerning the interconnection, services, or network elements requested.

1. As to interconnection points, Midcontinent will request trunk-side interconnection; central office connection and tandem interconnect.

2. Midcontinent will request no unbundled elements. Midcontinent uses NDA for operator services.

3. As to co-location, Midcontinent will ask for meet-point co-location located at SDN.

4. As to wholesale services, Midcontinent will request directory publication.

5. As to number portability, Midcontinent requests long-term local number portability.

6. As to access to 911 or enhanced 911, Midcontinent currently is connected to the Minnehaha County PSAP-Metro Communications. Dialing parity will be required, including as to EAS.

7. Midcontinent's list of contact persons is as follows:

Mary Lohnes
Regulatory Affairs Manager
605-357-5459
mary.lohnes@mimi.net

Nancy Vogel
Director of Revenue Assurance
605-357-5485
nancy.vogel@mimi.net

Mike Bosma
Manager of Network Engineering
605-357-5834
mike.bosma@mimi.net

Pete Skorczewski
Sr. Telecom Engineer
605-357-5498
pete skorczewski@mmi.net

Midcontinent requests that representatives of Alliance meet with representatives of Midcontinent at a mutually agreeable location within two weeks of the date of this notice to establish a schedule and a framework for negotiations to develop an interconnection agreement.

Dated this 9th day of October, 2008.

MAY, ADAM, GERDES & THOMPSON LLP

BY: 

DAVID A. GERDES

Attorneys for Midcontinent

503 South Pierre Street

P.O. Box 160

Pierre, South Dakota 57501-0160

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Telefax: (605) 224-6289

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CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 9th day of October, 2008, 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 his last known address, to-wit:

Alliance Communications Cooperative, Inc.
Attention: Don Snyders, General Manager
P.O. Box 349
Garretson, South Dakota 57030

and by e-mail to:

PATRICIA VAN GERPEN, EXECUTIVE DIRECTOR
SD PUBLIC UTILITIES COMMISSION
patty.vangerpen@state.sd.us

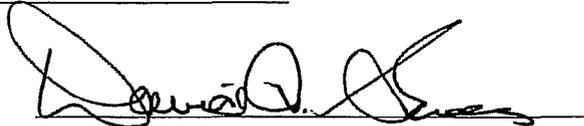
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RICHARD D COIT
EXECUTIVE DIRECTOR AND GENERAL COUNSEL
SDTA
richcoit@sdtaonline.com

A handwritten signature in black ink, appearing to read "David A. Gerdes", written over a horizontal line.

David A. Gerdes