

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

IN THE MATTER OF THE FILING BY)	TC09-009
MIDSTATE TELECOM, INC., FOR AN)	
EXTENSION OF AN EXEMPTION FROM)	MIDCONTINENT'S
DEVELOPING COMPANY SPECIFIC COST-)	PETITION TO INTERVENE
BASED SWITCHED ACCESS RATES)	

COMES NOW Midcontinent Communications ("Midcontinent") and moves to intervene in the captioned docket as follows:

1. Midcontinent petitions to intervene in the above-captioned docket as a late filed intervention because, pursuant to ARSD 20:10:01:15.02 granting of this intervention will not unduly prejudice the rights of other parties to the proceeding, and a failure to grant this petition would be detrimental to the public interest. Midcontinent is certificated to provide telecommunications services in the Qwest areas. Midstate likewise is certificated as a competitive local exchange carrier to provide telecommunications services in the Qwest areas. The two companies compete in the Chamberlain exchange.

2. Midstate's three year negotiated rate was approved by the Commission from a stipulation between Midstate and Commission Staff on March 20, 2006. Thus the stipulation has expired. The stipulated rate is \$0.1150.

3. In Docket TC07-117 the Commission failed to approve Midcontinent's cost study and ordered Midcontinent to continue using the Qwest rate for its switched access rate, 6.042 cents. Further, Midcontinent was ordered to refile its cost study for further study. Staff's overarching position encouraged the Commission as a general matter to require CLECs to adopt the ILEC access rate according to Staff's view of the FCC's recommendation on the subject.

4. Midcontinent is left at the Qwest rate, notwithstanding its efforts to receive approval of a sound and realistic cost study. A CLEC access rate rulemaking appears to be going nowhere. Midcontinent's ability to compete will be severely harmed by an extension of the unrealistic stipulated rate. To Quote Staff's brief in Docket TC07-117, "[a]llowing Midcontinent to charge 9.8

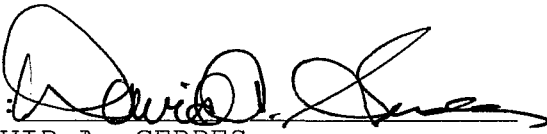
cents per minute ignores the fact that it would put them at a huge competitive advantage over the other CLECs and Qwest" Here , the shoe is on the other foot, and Midstate at \$0.1150 will have a huge competitive advantage over Midcontinent and any other CLEC.

5. Midcontinent is a competitive local exchange carrier which competes across the state with various other CLECs as well as with the incumbent carriers. Midcontinent has an interest in the outcome of this proceeding because it has a keen interest in robust and fair competition in all the telecommunications exchanges throughout the state. As such, the outcome of this proceeding will have a direct impact upon the business interests of Midcontinent Communications and it therefore has a business interest peculiar to its status as a telecommunications carrier competing against other carriers in the marketplace. Midcontinent therefore qualifies for intervention pursuant to ARSD 20:10:01:15.05, in that it will be directly affected adversely which is an interest distinguishable from an interest common to the public or to taxpayers in general.

WHEREFORE Midcontinent prays that intervention be granted to it to advocate cost-based, not negotiated, switched access rates in the marketplace.

Dated this 7th day of April, 2009.

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CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 7th day of April, 2009, he filed electronically and e-mailed a true and correct copy of the

foregoing in the above-captioned action to the following at their last known addresses, to-wit:

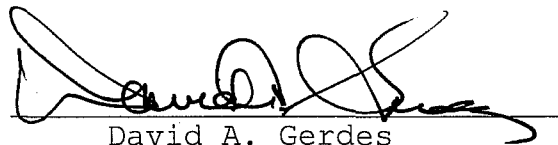
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