

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

IN THE MATTER OF THE FILING BY	)	TC09-014
SSTELECOM, INC. FOR AN EXTENSION	)	
OF AN EXEMPTION FROM DEVELOPING	)	<b>MIDCONTINENT'S</b>
COMPANY SPECIFIC COST-BASED	)	<b>PETITION TO INTERVENE</b>
SWITCHED ACCESS RATES	)	

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

1. Midcontinent is certificated as a CLEC to provide telecommunications services in the Qwest areas. SSTELECOM likewise is certificated as a competitive local exchange carrier to provide telecommunications services in the Qwest areas. The two companies compete in the Milbank exchange.

2. As stated in its motion for extension of exemption, SSTELECOM's stipulated rate of \$0.1150 will expire on May 15, 2009. SSTELECOM asks that the foregoing negotiated rate be extended.

3. This is justified at least in part on the theory that the Commission's rulemaking docket, opened in 2005, has not yet produced rules. The Commission has historically used its ILEC rules to govern CLEC switched access rates.

4. Staff has advocated, and the Commission apparently agrees, that CLECs should be moved to the incumbent switched access rate. Qwest's current switched access rate is 6.042 cents per minute.

5. The Commission has an obligation to treat CLECs in the same manner. Given prior rulings by the Commission to the effect that CLECs should use the incumbent switched access rate, this rule should be applied in this instance. Commission staff has taken the position that allowing a certain CLEC to charge a significantly higher rate ". . . ignores the fact that it would put [that CLEC] at a huge competitive advantage over the other CLECs and Qwest . . . ." This is what will continue to occur if

SSTELECOM were allowed to continue charging its present switched access rate.

6. Midcontinent is a CLEC which competes across the state with various other CLECs as well as with 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 and it, therefore, has a business interest peculiar to its status as a telecommunications carrier competing against other carriers in the marketplace. Intervention therefore lies under ARSD 20:10:01:15.05.

WHEREFORE, Midcontinent prays that intervention be granted for it to participate in the docket and protect the interests of Midcontinent and similarly-situated carriers.

Dated this 13<sup>th</sup> day of April, 2009.

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  
Telephone: (605)224-8803  
Telefax: (605)224-6289  
E-mail: [dag@magt.com](mailto:dag@magt.com)

#### CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 13<sup>th</sup> day of April, 2009, he filed electronically with the Public Utilities Commission 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:

Patricia Van Gerpen  
Executive Director  
South Dakota Public Utilities Commission  
[patty.vangerpen@state.sd.us](mailto:patty.vangerpen@state.sd.us)

Karen E. Cremer  
Staff Attorney  
South Dakota Public Utilities Commission  
[karen.cremer@state.sd.us](mailto:karen.cremer@state.sd.us)

Terri LaBrie Baker  
Staff Analyst  
South Dakota Public Utilities Commission  
[terri.labriebaker@state.sd.us](mailto:terri.labriebaker@state.sd.us)

Meredith A. Moore  
Cutler & Donahoe  
[meredithm@cutlerlawfirm.com](mailto:meredithm@cutlerlawfirm.com)

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

David A. Gerdes