

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT) OF MIDCONTINENT COMMUNICATIONS,) KNOLOGY OF THE PLAINS, INC.,) AND KNOLOGY OF THE BLACK HILLS, LLC,) AGAINST MCI COMMUNICATIONS) SERVICES, INC. D/B/A VERIZON BUSINESS) SERVICES FOR UNPAID ACCESS CHARGES)	TC10-096 MOTION TO AMEND COMPLAINT
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Midcontinent Communications (“Midcontinent”), by and through its undersigned counsel, files this Motion to Amend Complaint in the above captioned matter.

1. Pursuant to ARSD 20:10:01:16, if a responsive pleading has been filed, a pleading may be amended upon application of a party and at the discretion of the commission.
2. Midcontinent seeks to amend the complaint to add one additional count of breach of contract (Count 4) against MCI Communications Services, Inc. d/b/a Verizon Business Services (“Verizon”). The Amended Complaint is being filed simultaneously herewith.
3. Midcontinent specifically seeks to add a claim of breach of contract based on a Switched Access Service Agreement (“Agreement”) between Verizon and Midcontinent dated March 7, 2007, as amended by Amendment Number One to the Agreement dated March 3, 2010.
4. Verizon will not be prejudiced by the inclusion of the additional claim at this early stage in the proceeding, nor should the claim impact the procedural schedule negotiated by the parties. In December, 2010, Verizon was made aware that Midcontinent believes Verizon has breached the Agreement by failing to pay switched access charges on VoIP traffic and that Midcontinent was considering filing an amended complaint in that regard.


Thereafter, Midcontinent sent Interrogatories to Verizon inquiring about the existence of any Switched Access Services Agreement between Verizon and Midcontinent and Verizon's position on the applicability of such Agreement to the disputed traffic in this matter. Further, Verizon has acknowledged the existence of the Agreement in its responses to Midcontinent's Interrogatories.

5. It is Midcontinent's belief that the language in the Agreement bears directly on the application of intrastate switched access charges to VoIP traffic exchanged between Midcontinent and Verizon, and therefore, that the additional claim is directly relevant to the issues already before the Commission.
6. Knology of the Plains, Inc. and Knology of the Black Hills, LLC, have no objection to Midcontinent's Motion to Amend.
7. Pursuant to the Agreement, the terms contained therein are confidential. Therefore, Midcontinent is filing a Confidential version of the Amended Complaint, as well as a redacted version of the Amended Complaint.

WHEREFORE, Midcontinent respectfully requests that the Commission grant its Motion to Amend Complaint.

Respectfully Submitted this 3rd
day of February, 2011

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CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Complainants, hereby certifies that a true and correct copy of the foregoing Motion to Amend Complaint was served via email upon the following:

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on this 3rd day of February, 2011.

