

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

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|---------------------------------------|---|------------------------|
| IN THE MATTER OF THE COMPLAINT |) | |
| AND REQUEST FOR DECLARATORY |) | |
| RULING FILED BY MIDCONTINENT |) | DOCKET TC12-016 |
| COMMUNICATIONS AGAINST PAETEC |) | |
| COMMUNICATIONS, INC. REGARDING |) | |
| THE DELIVERY OF TELECOMMUNICA- |) | |
| TIONS TRAFFIC AND PAYMENT FOR |) | |
| SUCH TRAFFIC |) | |

**PETITION TO INTERVENE ON BEHALF OF LOCAL EXCHANGE CARRIERS
ASSOCIATION**

The Local Exchange Carriers Association (“LECA”) hereby petitions the South Dakota Public Utilities Commission (“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 thereof, LECA states as follows:

1. On January 12, 2012, the Commission received a complaint from Midcontinent Communications (“Midco”) against PaeTec Communications, Inc. (“PaeTec”). The Complaint alleges that PaeTec, a certified interexchange carrier (“IXC”) in South Dakota, is engaged in certain questionable and possibly illegal practices with respect to telecommunications traffic that is sent for termination in South Dakota. Specifically, it is alleged that PaeTec is: (1) “engaging in activity whereby it sends telecommunications traffic to Midcontinent for terminating and is altering and/or disguising the data in the call signaling stream to mask the true origination point or jurisdiction of the traffic, thereby making the traffic appear as if it is a local telecommunications call not subject to terminating access charges”; and (2) “is engaging in activity that results in long distance calls destined for Midcontinent end user customers being delayed, dropped, blocked, and/or otherwise prevented from terminating to the Midcontinent customer.”

2. These alleged activities of PaeTec are alleged to constitute violations of various South Dakota statutes, including the provisions of SDCL §§ 49-31-111, 49-31-112, 49-31-10 and 49-31-11. As a cure to these violations, Midco requests various types of relief from this Commission including: requests for declaratory rulings; a cease and desist order; an order requiring PaeTec to provide certain call detail records; an order for payment of unpaid access charges; and an order imposing fines on PaeTec for all determined statutory violations.

3. LECA is an association comprised of rural incumbent local exchange carriers (“LECs”) operating in the State of South Dakota. All of the LECA member companies operate as “rate-of-return” incumbent carriers at both the federal and state levels in their provisioning of switched access telecommunications services. LECA administers a voluntary pooling mechanism and association tariff for the benefit of its member companies. The LECA Tariff filed with this Commission establishes the pooled or average originating and terminating intrastate switched access rates that are charged by the LECA member companies to other carriers utilizing switched network services.

4. As providers of switched access services and local transport and termination services, the LECA member companies receive traffic for termination from many different carriers/service providers, including telecommunications traffic that is either originated by PaeTec or carried by PaeTec as a transiting carrier. To the extent that any of the alleged activities of PaeTec also involve telecommunications calls or traffic destined for LECA member company exchanges, LECA member companies would obviously also be affected, in the same manner as described within the Midco Complaint.

5. As noted, the Complaint seeks various forms of relief including, pursuant to ARSD § 20:10:01:34, declaratory rulings related to several state statutes subject to this Commission’s

supervision and enforcement powers. Specifically, Midco seeks legal clarification from this Commission concerning provisions found in SDCL §§ 49-31-111, 49-31-112, 49-31-10 and 49-31-11. All of the LECA member companies are subject to and affected by these statutes and, consequently, any applied interpretation of such statutes will touch upon and affect each company's pecuniary interest.

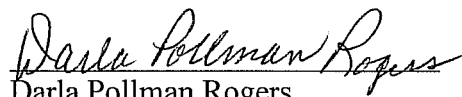
6. If the jurisdiction of terminating switched access traffic delivered by PaeTec to any LECA member company is altered or disguised and such traffic appears to be local traffic not subject to terminating access charges, LECA and the LECA pool would be adversely affected, thereby affecting each member company's pecuniary interest.

7. In addition, LECA member companies are adversely affected by long distance calls destined for LECA member end user customers being delayed, dropped, or blocked, so any decision of the Commission on that portion of Midco's Complaint will impact LECA member companies.

8. LECA seeks intervention in this proceeding based on the interests of all of its member companies which operate as incumbent local exchange carriers and "rural telephone companies" throughout this State. All of the LECA members are likely to be "bound and affected favorably or adversely" by decisions made in this proceeding. (See ARSD § 20:10:01:15.05).

9. Based on all of the foregoing, LECA is an interested party in this matter and would seek intervening party status.

Respectfully submitted this 3rd day of February, 2012.



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CERTIFICATE OF SERVICE

The undersigned, attorney for Local Exchange Carrier Association, (LECA), hereby certifies that a true and correct copy of the foregoing Petition to Intervene on Behalf of Local Exchange Carriers Association was sent electronically on this 3rd day of February, 2012, upon:

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