

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

DOCKET NUMBER TC12-102

IN THE MATTER OF THE)
COMPLAINT OF SOUTH DAKOTA)
NETWORK, LLC, AGAINST SPRINT)
COMMUNICATIONS COMPANY,)
LP)

AFFIDAVIT

AFFIDAVIT OF MARK BENTON

COMES NOW, Mark Benton, after being first duly sworn under oath, and
deposes and states as follows:

1. I am the General Manager/Chief Executive Officer of Midstate Telecom, Inc. (“Midstate Telecom”) and hereby submit this Affidavit in support of Midstate Telecom’s Transitional Rate filing, Docket TC12-102.
2. Midstate Telecom is a competitive local exchange carrier (CLEC) that provides local and switched access services to customers in Chamberlain, Oacoma, and the surrounding rural areas.
3. Midstate Telecom was granted a Certificate of Authority to provide services in the above exchanges on April 24, 2001. In said Order, the Commission also granted Midstate Telecom a one-year exemption from developing company specific cost-based switched access rates, and the Commission approved Midstate Telecom’s intrastate switched access rate of 13.25 cents, which was the “LECA plus” rate at

- the time¹ (TC01-007). This exemption was extended by the Commission for three years, on May 16, 2002. (TC02-032).
4. At the expiration of the three year period, Midstate Telecom requested continuation of the exemption from developing a company specific cost study for another three years, and for approval of its tariffed rate of 13.25 cents (TC05-060). In that docket, Midstate Telecom and Staff engaged in extensive negotiations concerning both the request for extension of the exemption and Midstate Telecom's switched access rate. Ultimately, Midstate Telecom and Staff entered into a Settlement Stipulation that extended the exemption for Midstate Telecom to file a cost study, and Midstate Telecom's switched access rate was reduced to 11.5 cents. Some of the negotiating factors that led to that rate were Midstate Telecom's agreement to offer services throughout the service areas of Chamberlain and Oacoma (including rural areas), and an agreement to a rate freeze for three years. Midstate Telecom's tariff pages were revised to reflect the new rate, and the Commission approved the Settlement Stipulation and the revised tariff pages, including the 11.5 cent rate, on April 25, 2006, (TC05-0060).
 5. Midstate Telecom's tariffed rate of 11.5 cents has remained unchanged since 2006. In 2009, the Commission granted Midstate Telecom's request for another exemption from filing a cost study, and also approved the 11.5 cent rate (TC09-009).
 6. Midstate Telecom was very involved in the Commission's rulemaking docket that set switched access rates for all CLECs at the RBOC rate (RM05-002). Midstate

¹ The "LECA Plus" rate consisted of the average rate of all LECA member companies plus two non-LECA cost companies.

Telecom formally objected to a uniform rate for all CLECs in the rulemaking docket by filing written comments on June 16, 2010, June 28, 2010, January 31, 2011, and April 13, 2011.

7. Midstate Telecom does not believe that the RBOC rate is appropriate for Midstate Telecom, due to the substantial investments Midstate Telecom has made in all parts of its service area, including rural areas. For that reason, Midstate Telecom, pursuant to the provisions of 20:10:27:02.02, filed a cost study shortly after the effective date of the new rules (TC11-075).
8. Midstate Telecom's cost study indicated that Midstate Telecom was justified in charging a significantly higher rate than the RBOC and its 11.5 cent tariffed rate. In the spirit of cooperation, Midstate Telecom did not change its tariff pages to conform to the increased rates supported in its cost study pending the final outcome (i.e. approval, modification and approval, or rejection) of the study by the Commission. Midstate Telecom started charging the RBOC rate while the cost study docket was pending because Midstate Telecom did not want to risk creation of a large retroactive refund, in the event the cost study was disapproved by the Commission.
9. Midstate Telecom then later changed the rate it was billing to carriers to its composite tariffed rates of 11.5 cents per minute, effective with its November, 2011, usage. Midstate Telecom made this change to its billed rates as a result of statements from Staff that Midstate Telecom must charge the rates in its tariff. None of the carriers to whom Midstate Telecom billed its tariffed rates disputed their billings.

10. Midstate Telecom withdrew its cost study in June of 2012, shortly before its transitional rate filing in the current docket, but months after the FCC's release of Order 11-161. Midstate Telecom withdrew the study based upon its sincere belief that as a result of the FCC's Order, the cost study had no effect on or relevance to Midstate Telecom's terminating intrastate access rates, or to its transitional filing calculations in Docket TC12-102. Another reason Midstate Telecom withdrew the cost study was because of the significant and ongoing costs related to such study, including assessments by the Commission for payment of Staff's retained consultant to analyze the study.

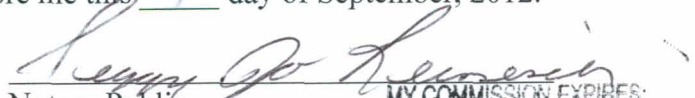
11. Midstate Telecom's legal tariffed composite intrastate switched access rates as of December 29, 2011, are 11.5 cents per minute. Those rates were filed and approved by the Commission on April 25, 2006. No other revisions to Midstate Telecom's tariff have been filed or approved by this Commission since that date.

Dated this 7 of September, 2012.



Mark Benton

Subscribed and sworn to before me this 7 day of September, 2012.


Notary Public MY COMMISSION EXPIRES:
My commission expires: APRIL 27, 2018
Notary Print Name: Peggy Jo Reinesch

