

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

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Docket No. TC12-023

In the Matter of the Request for Declaratory  
Ruling by Allen Beyers Regarding the  
Application of SDCL 49-32-6 to a  
Midcontinent Communications Line in  
Ipswich, S.D.

**ANSWER OF MIDCONTINENT  
COMMUNICATIONS**

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Comes now Midcontinent Communications ("Midcontinent"), by and through its undersigned counsel, and hereby files this Answer to the Request for Declaratory Ruling by Allen Beyers ("Beyers") Regarding the Application of SDCL 49-32-6 to a Midcontinent Communications Line in Ipswich, S.D.

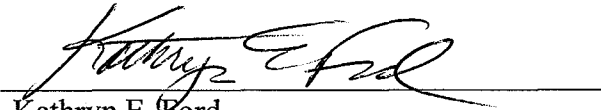
1. Midcontinent provides cable television and internet service in the City of Ipswich, S.D. *See* Attached Affidavit of Nancy Vogel ("Vogel Affidavit") at ¶ 1.
2. Midcontinent does not provide telecommunications services in the city of Ipswich, S.D. Vogel Affidavit at ¶ 2.
3. SDCL 49-32-6 prohibits any person owning or operating "telecommunications facilities" or "electric lines" from collecting damages from any person who cuts, breaks, removes, or destroys such facilities over or across a public highway, "if any part of the same is at any time less than eighteen feet from the ground."
4. SDCL 49-32-6 applies only to "telecommunications facilities" or "electric lines."
5. Because the Midcontinent facilities in question are not "telecommunications facilities" or "electric lines" the statute does not apply.

6. The South Dakota Public Utilities Commission ("Commission") does not regulate cable television or internet service providers. As such, the Commission does not have jurisdiction to determine whether SDCL 49-32-6 applies to "cable facilities" or "internet facilities."

WHEREFORE, Midcontinent respectfully requests that the Commission dismiss this Request for Declaratory Ruling.

Dated at Sioux Falls, South Dakota, this 27th day of February, 2012.

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*Attorneys for Midcontinent Communications*

## CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Midcontinent Communications, hereby certifies that a true and correct copy of the foregoing "Answer of Midcontinent Communications" was served by mail upon:

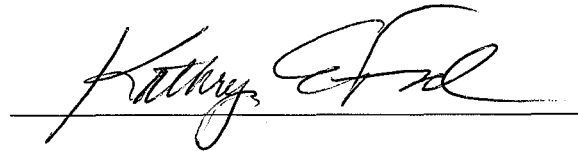
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on this 27<sup>th</sup> day of February, 2012.

A handwritten signature in cursive script, appearing to read "Kathy E. Ford", is written over a horizontal line.