

**TO:** COMMISSIONERS AND ADVISORS  
**FROM:** LORENA REICHERT AND KRISTEN EDWARDS  
**SUBJECT:** TC15-063: APPLICATION OF MIDCONTINENT COMMUNICATIONS FOR AN AMENDED CERTIFICATE OF AUTHORITY AND FOR A WAIVER OF ARSD 20:10:32:15  
**DATE:** DECEMBER 4, 2015

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## STAFF MEMORANDUM

### 1.0 Filing Overview

On August 18, 2015, Midcontinent Communications (Midcontinent) filed an Application for an Amended Certificate of Authority, seeking to provide competitive local exchange services in the exchange areas of Bowdle and Roslyn. At that time, Midcontinent also filed an application for Waiver of ARSD 20:10:32:15.

On September 4, 2015, the South Dakota Telecommunications Association (SDTA) and Venture Communications Cooperative (Venture) each filed a Petition to Intervene. At the September 15 Commission meeting, the Commission granted SDTA and Venture intervention.

On September 23, 2015 and October 5, 2015, Midcontinent responded to staff's first and second data requests.

On October 13, 2015, Midcontinent filed a supplement to its application for an amended certificate of authority to provide local exchange service in Bowdle and Roslyn, as well as Selby, Java, and Roscoe. At that time, Midcontinent also submitted an amended request for interconnection with Venture. On November 11, 2015, Midcontinent responded to staff's third data request.

### 2.0 Purpose of Memo

Staff has found that Midcontinent has submitted a completed application for an amended certificate of authority. In addition, it is Staff's understanding that Venture currently offers video services in the requested areas. With Venture now providing video services in Bowdle, Roslyn, Selby, Java, and Roscoe, according to 47 USC § 251 (f)(1)(C), Venture is not exempt from subsection (c) of 47 USC § 251, which regards additional interconnection obligations of incumbent local exchange carriers.

The question then arises if Midcontinent should be granted a waiver of ARSD 20:10:32:15, pursuant to ARSD 20:10:32:18. According to ARSD 20:10:32:18, "the commission may grant the waiver if, after notice and opportunity for hearing, it is determined by the commission that granting the waiver does not adversely impact universal service, that the quality of service shall continue, and that it is in the public interest."

Midcontinent explains in Data Request response 3-2 that they have been approved in exchanges of several South Dakota rural telephone companies and “believes that none of the RLECS universal services have been harmed by competition.” It should be noted that in these previous dockets, there were either no intervenors or Midcontinent and the intervenors reached an agreement. In addition, in Data Request response 3-3(b), Midcontinent believes that the remaining rural territory’s reliance on Federal Universal funds would not change with a competitor serving in select city limits of the Venture study areas.

However, according to Venture Communications Cooperative’s Petition to Intervene, the “Commission’s decision may, directly or indirectly, affect the quality or cost of telecommunications services” to its customers. If Venture would like to substantiate this claim, staff recommends that the matter be solved through the hearing process. However, if at the time of the Commission meeting, Venture no longer feels this is an issue, Staff recommends approving the application and waiver, as supplement on October 13.