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

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IN THE MATTER OF THE COMPLAINT FILED BY MIDCONTINENT COMMUNICATIONS, KNOLOGY OF THE PLAINS, INC., AND KNOLOGY OF THE BLACK HILLS, LLC, AGAINST MCI COMMUNICATIONS SERVICES, D/B/A VERIZON BUSINESS SERVICES FOR UNPAID ACCESS CHARGES ORDER DENYING INTERIM RELIEF; DENYING COMPLAINANTS' REQUEST TO TERMINATE SERVICES; AND ORDER REGARDING PROCEDURAL SCHEDULE 404

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## TC10-096

On October 27, 2010, the Public Utilities Commission (Commission) received a complaint from Midcontinent Communications, Knology of the Plains, Inc., and Knology of the Black Hills, LCC (Complainants) against MOI Communications Services, Inc. d/b/a Verizon Business Services (Verizon) for unpaid access charges. The Complainants allege that Verizon has failed to pay invoices pursuant to state tariffs for the provision of intrastate switched access services. The Complainants believe Verizon withheld payment based on Verizon's argument the unpaid amounts are linked to IP-originated and IP-terminated traffic and that this traffic is not subject to switched access tariff charges. The Complainants disagree, arguing the traffic is subject to switched access charges. On November 18, 2010, Verizon filed an Answer to Complaint, Request for Stay to Permit Settlement Negotiations, Or, in the Alternative, Request for Hearing on Threshold Factual Issues Related to Jurisdiction.

On December 8, 2010, the Complainants filed their Opposition to Verizon's Request for Stay or Alternative, Request for Hearing on Threshold Factual Issues. On December 13, 2010, Verizon filed a reply to Complainants' Brief in Support of Opposition to Verizon's Request for Stay or Alternative Request for Hearing on Threshold Factual Issues. On December 21, 2010, Complainants filed a Request for Interim Relief. On December 27, 2010, Complainants filed a Request for Procedural Schedule. On December 30, 2010, Verizon filed a Reply to Complainants' Request for Interim Relief. On December 30, 2010, Verizon filed a Reply to Complainants' Request for Procedural Schedule. On January 3, 2011, Complainants filed a Reply to Verizon's Response to Request for Interim Relief.

The Commission finds that it has jurisdiction pursuant to SDCL 49-13 and 49-31.

At its regularly scheduled meeting of January 4, 2011, the Commission considered this matter. Commission Staff recommended that the Commission deny Complainants' request for interim relief and to deny Complainants' alternative request to cease providing intrastate switched access services to Verizon. Chairman Kolbeck moved to deny the Complainants' request for interim relief. The motion passed 2-1 (Hanson dissenting). Chairman Kolbeck moved to deny the Complainants' alternative request to cease providing intrastate switched access services to Verizon. The motion passed unanimously. The Commission finds the current record is insufficient to support the granting of the relief requested by the Complainants. Commission Johnson moved to have Commission Counsel work with the parties to determine a procedural schedule with two rounds of discovery, the first round having 30 days, the second round having 21 days; to file any dispositive motions prior to the hearing; and to have all pre-filed testimony filed prior to the hearing. The motion

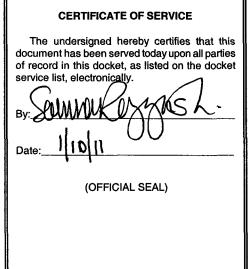
passed unanimously. It is therefore

ORDERED, that the Complainants' request for interim relief is hereby denied. It is further

ORDERED, that the Complainants' alternative request to cease providing intrastate switched access services to Verizon is also denied. It is further

ORDERED, that Commission Counsel work with the parties to determine a procedural schedule with two rounds of discovery, the first round having 30 days, the second round having 21 days; to file any dispositive motions prior to the hearing; and to have all pre-filed testimony filed prior to the hearing.

Dated at Pierre, South Dakota, this \_ \_\_\_\_\_ day of January, 2011.



BY ORDER OF THE COMMISSION:

**STEVE KOLBECK, Chairman** 

GARY HANSON, Commissioner (dissenting in part)

DUSTIN M. JOHNSON, Commissioner