

TC04-224

SH

TC04-224

DOCKET NO. _____

In the Matter of IN THE MATTER OF THE FILING FOR APPROVAL OF AN INTERCONNECTION AGREEMENT BETWEEN MIDCONTINENT COMMUNICATIONS AND INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

Public Utilities Commission of the State of South Dakota

DATE	MEMORANDA
11/12 04	<i>Filed and Docketed;</i>
11/18 04	<i>Weekly Filings;</i>
12/17 04	<i>Order Approving Agreement;</i>
12/17 04	<i>Order Approving Agreement;</i>
12/17 04	<i>Docket Closed.</i>

LAW OFFICES
MAY, ADAM, GERDES & THOMPSON LLP
 503 SOUTH PIERRE STREET
 P.O. BOX 160
 PIERRE, SOUTH DAKOTA 57501-0160

DAVID A. GERDES
 CHARLES M. THOMPSON
 ROBERT B. ANDERSON
 BRENT A. WILBUR
 TIMOTHY M. ENGEL
 MICHAEL F. SHAW
 NEIL FULTON
 BRETT KOENECKE
 CHRISTINA L. FISCHER

SINCE 1881
 www.magt.com

November 12, 2004

OF COUNSEL
 WARREN W. MAY
 THOMAS C. ADAM

GLENN W. MARTENS 1881-1963
 KARL GOLDSMITH 1885-1966

TELEPHONE
 605 224-8803

TELECOPIER
 605 224-6289

RECEIVED
 E-MAIL
 dag@magt.com

NOV 12 2004

SOUTH DAKOTA PUBLIC
 UTILITIES COMMISSION

HAND DELIVERED

Pamela Bonrud, Executive Secretary
 Public Utilities Commission
 500 East Capitol Avenue
 Pierre, South Dakota 57501

**RE: MIDCONTINENT COMMUNICATIONS; ITC INTERCONNECTION
 AGREEMENT**

Our file: 0053

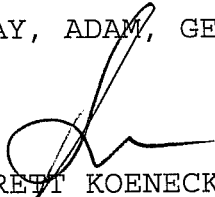
Dear Pam:

Enclosed are original and 11 copies of an Interconnection Agreement between Midcontinent Communications and Interstate Telecommunications Cooperative, Inc. Please file the enclosure for Commission approval.

Under separate cover, an original counterpart of this document is being sent to Jerry Heiberger of Interstate Telecommunications Cooperative, Inc.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP



BRETT KOENECKE

BK:mw

Enclosures

cc: Jerry Heiberger
 Tom Simmons
 Darla Rogers

TC 04-224

RECEIVED

NOV 12 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

INTERCONNECTION AGREEMENT

between

MIDCONTINENT COMMUNICATIONS

and

INTERSTATE TELECOMMUNICATIONS COOPERATIVE, INC.

for

WAUBAY, SOUTH DAKOTA

INTERCONNECTION AGREEMENT

This Interconnection Agreement, made as of the 31st day of October, 2004, is between Midcontinent Communications ("Midcontinent") and Interstate Telecommunications Cooperative, Inc. ("ITC" or "Company").

I. RECITALS

Pursuant to this Interconnection Agreement ("Agreement"), Midcontinent and ITC (collectively, "the Parties") will interconnect their networks to one another within the Waubay, South Dakota exchange which is defined by the NXX code "947" – XXXX. This Agreement includes terms and conditions for such network interconnection.

II. SCOPE OF AGREEMENT

- A. This Agreement sets forth the terms, conditions and prices under which the parties agree to provide interconnection and the exchange of local traffic over wireline networks within the "947" Waubay, South Dakota exchange. The Agreement includes all accompanying appendices.
- B. In the performance of their obligations under this Agreement, the Parties shall act consistent with their lawful obligations. Where notice, approval or similar action by a Party is permitted or required in writing by any provision of this Agreement, such action shall not be unreasonably delayed, withheld or conditioned.
- C. The Parties agree and understand that the per minute reciprocal transport and termination rates set forth in Appendix A to this Agreement are not based on a specific costing methodology or company specific cost study.
- D. The Parties agree and understand that this Agreement does not affect ITC's status as a "rural telephone company" for purposes of Section 251(f)(1) of the Communications Act of 1934, as amended.
- E. The Parties agree that their entry into this Agreement is without prejudice to and does not waive any positions they may have taken previously, or may take in the future, in any legislative, regulatory, judicial or other public forum addressing any matters, including matters related to the same types of arrangements and/or matters related to cost recovery covered in this Agreement. The execution of this Agreement by the Parties is not a concession or waiver in any manner concerning their position that certain rates, terms, and conditions contained herein may or may not be required by law.

III. DEFINITIONS

- A. "Act" means the Communications Act of 1934 (47 U.S.C. § 151, et seq.), as amended by the Telecommunications Act of 1996, and as from time to time interpreted judicially and in the duly authorized rules and regulations of the FCC or the South Dakota Public Utilities Commission (SD PUC)
- B. "Calling Party Number" or "CPN" is a Common Channel Signaling ("CCS") parameter that refers to the number transmitted through a network identifying the calling party.
- C. "Commission" means the South Dakota Public Utilities Commission.
- D. "Common Channel Signaling" or "CCS" means a method of digitally transmitting call set-up and network control data over a special signaling network fully separate from the public voice switched network elements that carry the actual call. The CCS used by the Parties shall be Signaling System 7.
- E. "Interconnection" is as described in the Act and refers to the connection of separate pieces of equipment, facilities, or platforms between or within networks for the purpose of transmission and routing of telecommunications traffic.
- F. "ISP-bound Traffic" has the same meaning as in the FCC's Order on Remand and Report and Order in the matter of Intercarrier Compensation for ISP-bound Traffic. 16 F.C.C.R.9151 (2201) ("FCC ISP Order").
- G. "LIS" is defined as local interconnection services. Only LIS circuits may be used to route Local Traffic between the Parties. No long distance toll traffic may be routed over LIS circuits.
- H. "Local Traffic" means traffic, other than ISP-bound Traffic, that is originated by an end user of one Party in the "947" exchange and terminates to an end user of the other Party in the same exchange.
- I. "North American Numbering Plan" or "NANP" means the numbering plan used in the United States that also serves Canada, Bermuda, Puerto Rico and certain Caribbean Islands. The NANP format is a 10-digit number that consists of a 3-digit NPA code (commonly referred to as the area code), followed by a 3-digit NXX code and 4-digit line number.
- J. "NXX" means the fourth, fifth and sixth digits of a ten-digit telephone number.

- K. "Party" means either Midcontinent or ITC and "Parties" means Midcontinent and ITC.
- L. "Point of Interface" or "POI" is a mutually agreed upon point of demarcation where the exchange of traffic between Midcontinent and ITC takes place, as set forth in Appendix B, which may be changed from time to time upon mutual agreement in writing between the parties.
- M. "Telecommunications Carrier" means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in Section 226 of the Act).
- N. "Transit Traffic" is traffic that, for purposes of this Agreement only, neither originates nor terminates with the party providing the transit service. Transit services and related rates are not covered by this Agreement.
- O. Terms not otherwise defined here, but defined in the Act or in regulations implementing the Act, shall have the meaning defined therein.

IV. RECIPROCAL TRAFFIC EXCHANGE

A. Scope

Reciprocal traffic exchange addresses the exchange of local traffic between the Parties.

B. Types of Traffic

1. The types of traffic to be exchanged under this Agreement are limited to Local Traffic and ISP-bound Traffic as described above.
2. The traffic not covered by this Agreement includes all other traffic, and certain ancillary traffic such as:
 - a. Directory Assistance
 - b. Operator call termination
 - c. 800/888 database dip
 - d. LIDB
 - e. Information services requiring special billing
 - f. Wireless traffic terminating on either Party's network from a Commercial Mobile Radio Service provider

- g. 911
- h. Transit traffic

V. INTERCONNECTION

A. Definition

“Interconnection” is the linking of the Midcontinent and ITC networks for the mutual exchange of local and/or ISP-bound traffic, and the completion of calls to the called customer, by the party terminating the call on its side of the POI.

B. Physical POI

Each Party is responsible for providing its own facilities, including the cost of those facilities, up to the actual physical POI. The Parties will negotiate the facilities arrangement for the interconnection of their respective networks at the physical POI. Refer to Appendix B.

C. Service Interruptions

1. The characteristics and methods of operation of any circuits, facilities or equipment of either Party connected with the services, facilities or equipment of the other Party pursuant to this Agreement shall not: 1) interfere with or impair service over any facilities of the other Party, its affiliated companies, or its connecting and concurring carriers involved in its services; 2) cause damage to the other Party's plant; 3) violate any applicable law or regulation regarding the invasion of privacy of any communications carried over the Party's facilities; or 4) create hazards to the employees of either Party or to the public. Each of these requirements is hereinafter referred to as an “Impairment of Service.”
2. To facilitate trouble reporting and to coordinate the repair of the service provided by each Party to the other under this Agreement, each Party shall designate a Trouble Reporting Control Office (TRCO) for such service. Each Party shall provide a method for receiving trouble reports on a 24-hour basis. A mechanized recording process that is reviewed during normal business hours shall satisfy this requirement.
3. Each Party shall furnish a trouble reporting telephone number.

4. Before either Party reports a trouble condition, it shall use its best efforts to be sure that the trouble is not caused by its own facilities.
 - a. In cases where a trouble condition affects a significant portion of the other's service, the Parties shall assign the same priority assigned to their own services.
 - b. The Parties shall promptly cooperate in isolating trouble conditions.

D. Number Portability

The parties will provide LNP in accordance with the rules and regulations prescribed by the FCC and the Commission and the Commission's Final Decision and Order in TC04-054, dated September 30, 2004. ITC agrees to provide to Midcontinent transitional number portability measures (also referred to as transitional LNP and interim LNP) as defined in 47 CFR § 52.21 (r) and in accordance with the Commission's Final Decision and Order in TC04-054, dated September 30, 2004, within 60 days of the effective date of this agreement at the rates and as specified in Appendix C. Midcontinent will provide transitional LNP to ITC within 60 days of the effective date of this agreement at the rates and as specified in Appendix C.

E. Directory Listings

The Company will print listings for all customers in the ITC exchange. Midcontinent will be responsible for providing accurate customer name, address, and number information to ITC in the format and on the schedule required by ITC's directory publisher company. Midcontinent agrees that ITC may change its directory publisher company at any time and at its sole discretion. Midcontinent further agrees and understands that ITC's directory publisher company may change the format and schedule for providing directory listing information, and that Midcontinent must comply with any such changes to continue to have its listings published in the directory. The Company reserves the right to determine the propriety of any listing to be included in the directory.

F. Intercept Messaging

Each party will make available the following intercept messaging services:

1. Temporary Disconnects for Non-Pay. The recipient company will have control of the customer's line and will be responsible to provide the intercept message. Both service order and central office non-recurring charges are not applicable.
2. Permanent Disconnects. The recipient company will return the disconnected number immediately following the disconnect. The donor company will be responsible for the message and aging of the number. Both service order and central office non-recurring charges are not applicable.
3. Permanent Disconnects with New Number Referral. The recipient company will return the disconnected number immediately following the disconnect. The donor company will provide the new number referral message service up to 12 months for the recipient company. The recipient company agrees to provide a service order. Applicable service order and central office charges will apply, as shown in Attachment C.

VI. DIALING PARITY

The Parties shall provide Dialing Parity to each other as required under Section 251(b)(3) of the Act.

VII. NOTICE OF CHANGES

If a Party makes a change in its network that it believes will materially affect the inter-operability of its network with the other Party, the Party making the change shall provide thirty days advance notice of such change to the other Party.

VIII. MISCELLANEOUS TERMS

A. General Provisions

1. Each Party is individually responsible to provide facilities within its network necessary for routing, carrying, measuring, and billing traffic from the other Party's network and for delivering such traffic to the other Party's network in the standard format compatible with the other Party's network and to terminate the traffic it receives in that standard format to the proper address on its network. Such facility shall be designed based upon the description and forecasts provided under this Agreement.
2. Midcontinent may place its equipment at ITC's facilities, if at all, only pursuant to a separate agreement with ITC.

3. Neither Party shall interconnect its facilities or provide service related to this Agreement in a manner that interferes with a customer's existing service, prevents a customer from using its existing service, or otherwise impairs the quality of a customer's existing service provided by the other Party. Each Party may discontinue or refuse service if the other Party violates this provision. Upon such violation, either Party shall provide the other Party with notice of such violation at the earliest practicable time.
4. Each Party is solely responsible for the services it provides to its customers and to other Telecommunications Carriers.
5. The Parties shall cooperate in minimizing fraud associated with third-number billed calls, calling card calls, and any other services related to this Agreement.

B. Term of Agreement

This Agreement shall become effective upon Commission approval pursuant to Sections 251 and 252 of the Act. The end of the initial term of this Agreement shall be November 1, 2006. The Agreement shall automatically renew for one-year terms unless written notice terminating the Agreement is provided by either Party no later than six months before the end of the then-current term.

C. Compensation

1. Local Traffic

The Parties agree that compensation for call termination for Local Traffic (i.e., the completion of a local call by a Party to the called customer on the side of the POI of the Party completing the call) shall be based upon rates set forth in Appendix A , and upon the reciprocal compensation methodology set forth therein.

2. ISP Bound Traffic

The Parties agree that ISP-bound Traffic is governed by the FCC ISP Order. The Parties agree to exchange ISP-bound traffic utilizing the bill and keep compensation mechanism.

D. Billing and Payment

1. Each Party shall bill on a monthly basis for services provided pursuant to this Agreement.

2. The Parties shall pay invoices within forty-five (45) days receipt of the invoice.
3. A Party must give written notice to the other party identifying any dispute of an invoiced amount. A Party may withhold payment of the properly disputed portion of an invoice, but must timely pay the undisputed portion.
4. A Party must give written notice to the other party identifying any dispute of an invoiced amount. A Party may withhold payment of the properly disputed portion of an invoice, but must timely pay the undisputed portion.
5. If the dispute is resolved in favor of the invoicing Party, then the disputed amount plus the late payment charge shall be paid to the invoicing Party within twenty (20) days of the resolution of the dispute.
6. Any amounts owed under the terms of this Agreement if not paid when due, shall be subject to a late payment fee equal to the greater of (a) one and one-half percent per month or (b) the highest rate of interest that may be charged under applicable law, compounded daily from the date on which payment was due until the date on which payment is made.

E. Confidential/Proprietary Information

1. The Parties agree that it may be necessary to exchange certain information during the term of this Agreement, including, without limitation, technical and business plans, information, proposals, specifications, and procedures, orders for service, usage information, customer account data and Customer Proprietary Network Information, and that such information shall be deemed Confidential Information. The Confidential Information is deemed Proprietary to the Disclosing Party and it shall not be disclosed or used by the Recipient for any purpose other than to provide service as specified in this Agreement. Recipient may disclose Confidential Information as required by law, provided that the Disclosing Party has been notified of the requirement promptly.
2. Information shall not be considered Confidential Information if it was in the Recipient's possession free of restriction prior to its receipt from Disclosing Party; or after it becomes publicly known or

available through no breach of this Agreement.

3. Each Party agrees that the Disclosing Party would be irreparably injured by breach of this Agreement by Recipient and that the Disclosing Party shall be entitled to seek equitable relief, including injunctive relief and specific performance in the event of any breach of this section. Such remedies shall not be exclusive, but shall be in addition to all other remedies available at law or in equity.

F. Taxes

Each Party securing services hereunder shall pay or otherwise be responsible for all federal, state, or local sales, use, excise, gross receipts, transaction or similar taxes, fees or surcharges levied against or upon such securing Party (or the providing Party when such providing Party is permitted to pass along to the securing Party such taxes, fees or surcharges), except for any tax on either Party's corporate existence, status or income. Whenever possible, these amounts shall be billed as a separate item on the invoice.

G. Force Majeure

Neither Party shall be liable for any delay or failure in performance of any part of this Agreement from any cause beyond its control and without its fault or negligence including, without limitation, acts of nature, acts of civil or military authority, government regulations, embargoes, epidemics, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, work stoppages, equipment failure, power blackouts, volcanic action, other major environmental disturbances, unusually severe weather conditions, inability to secure products or services of other persons or transportation facilities or acts or omissions of transportation carriers (collectively, a "Force Majeure Event"). In the event of a labor dispute or strike, the Parties agree to provide service to each other at a level equivalent to the level they provide themselves.

H. Limitation of Liability

1. Each Party shall be liable to the other for direct damages for any loss, defect or equipment failure resulting from the causing Party's conduct or the conduct of its agents or contractors in performing the obligations contained in this Agreement.
2. Neither Party shall be liable to the other under this Agreement for indirect, incidental, consequential, or special damages, including (without limitation) damages for lost profits, lost revenues, lost

savings suffered by the other Party regardless of the form of action, whether in contract, warranty, strict liability, tort, including (without limitation) negligence of any kind and regardless of whether the Parties know the possibility that such damages could result.

3. Nothing contained in this Section shall limit either Party's liability to the other for willful or intentional misconduct.
4. Nothing contained in this Section shall limit either Party's obligations of indemnification as specified in the Indemnity Section of this Agreement.

I. Indemnity.

Each party agrees (to the extent permitted by law) to defend, indemnify, and hold harmless the other party against any and all claims, liability, losses, damages, judgments, costs, or expenses (including reasonable attorneys' fees) caused by or resulting from the willful misconduct or negligent acts or omissions of the indemnifying party, its employees or agents related to any work or service provided under this Agreement. This indemnification provision is for the protection of Midcontinent and ITC only, and shall not establish, of itself, any liability on the indemnifying party for a claim against which the indemnified party is not liable, including situations where the indemnified party could assert sovereign immunity or a statutory limitation of liability. A party shall promptly notify the other party of its assertion of any claim against the party, which is potentially indemnifiable by the other party. A party shall give the other party an opportunity to defend such a claim and shall assist in defending and shall not settle such claim without the approval of the indemnifying party. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES, NOR FOR ANY LOSS OF PROFITS OR LOSS OF REVENUE RESULTING FROM PROVIDING SERVICES TO THE OTHER OR ANY THIRD PARTIES EVEN IF THE PARTY SOUGHT TO BE CHARGED HAS BEEN ADVISED OF THE POSSIBILITY THEREOF.

J. Warranties

NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE PARTIES AGREE THAT NEITHER PARTY HAS MADE, AND THAT THERE DOES NOT EXIST, ANY WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

K. Assignment

Neither Party may assign or transfer (whether by operation of law or otherwise) this Agreement (or any rights or obligations hereunder) to a third party without the prior written consent of the other Party provided that each Party may assign this Agreement to a corporate affiliate or an entity under its common control or an entity acquiring all or substantially all of its assets or equity by providing prior written notice to the other Party of such assignment or transfer. Any attempted assignment or transfer that is not permitted is void ab initio. Without limiting the generality of the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties' respective successors and assigns.

L. Severability

In the event that any one or more of the provisions contained herein shall for any reason be determined to be unenforceable or in conflict with state or federal law in any respect, the Parties will negotiate in good faith for replacement language. If replacement language cannot be agreed upon, either Party may pursue its lawful remedies.

M. Nondisclosure

All information, including but not limited to specifications, microfilm, photocopies, magnetic disks, magnetic tapes, drawings, sketches, models, samples, tools, technical information, data, employee records, maps, financial reports, and market data furnished by one Party to the other Party shall remain the property of the disclosing Party. A Party who receives Proprietary Information via an oral communication may request written confirmation that the material is Proprietary Information.

N. Survival

The Parties' obligations under this Agreement that by their nature are intended to continue beyond the termination or expiration of this Agreement, including the provisions of Section VIII(L), shall survive the termination or expiration of this Agreement.

O. Dispute Resolution

If any claim, controversy or dispute between the Parties, their agents, employees, officers, directors or affiliated agents ("Dispute") cannot be settled through negotiation, it shall be resolved by arbitration conducted by a single arbitrator engaged in the practice of law, under the then current rules of the American Arbitration Association ("AAA"), or in the

alternative pursuant to the jurisdiction of the appropriate regulatory agency. The Federal Arbitration Act, 9 U.S.C. Secs. 1-16, not state law, shall govern the arbitrability of all Disputes. The arbitrator shall not have authority to award punitive damages. All expedited procedures prescribed by the AAA rules shall apply. The arbitrator's award shall be final and binding and may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs and attorneys' fees, and shall share equally in the fees and expenses of the arbitrator. The arbitration shall occur in Sioux Falls, SD. Nothing in this Section shall be construed to waive or limit either Party's right to seek relief from the Commission or the Federal Communications Commission as provided by state or federal law.

No Dispute, regardless of the form of action, arising out of this Agreement, may be brought by either Party more than two (2) years after the cause of action accrues.

P. Controlling Law

This Agreement was negotiated by the Parties in accordance with the terms of the Act and the laws of South Dakota. It shall be interpreted solely in accordance with the terms of the Act and the applicable South Dakota law.

Q. Joint Work Product

This Agreement is the joint work product of the Parties and has been negotiated by the Parties and their respective counsel and shall be fairly interpreted in accordance with its terms and, in the event of any ambiguities, no inferences shall be drawn against either Party.

R. Notices

Any notices required by or concerning this Agreement shall be sent to the Parties at the addresses shown below:

Midcontinent Communications
Regulatory Affairs Manager
5001 West 41st Street
Sioux Falls, SD 57106

and

Interstate Telecommunications Cooperative, Inc.
Jerry Heiberger, General Manager
312 Fourth Street West

P.O. Box 920
Clear Lake, SD 57226

Each Party shall inform the other of any changes in the above addresses.

S. Responsibility of Each Party

Each Party is an independent contractor, and has and hereby retains the right to exercise full control of and supervision over its own performance of its obligations under this Agreement and retains full control over the employment, direction, compensation and discharge of all employees assisting in the performance of such obligations. Each Party will be solely responsible for all matters relating to payment of such employees, including compliance with social security taxes, withholding taxes and all other regulations governing matters. Each Party will be solely responsible for proper handling, storage, transport and disposal at its own expense of all (i) substances or materials that it or its contractors or agents bring to, create or assume control over at work locations or, (ii) waste resulting therefrom or otherwise generated in connection with its or its contractors' or agents' activities at the work locations. Subject to the limitations on liability and except as otherwise provided in this Agreement, each Party shall be responsible for (i) its own acts and performance of all obligations imposed by applicable law in connection with its activities, legal status and property, real or personal and, (ii) the acts of its own affiliates, employees, agents and contractors during the performance of that Party's obligations hereunder.

T. No Third Party Beneficiaries

Except as may be specifically set forth in this Agreement, this Agreement does not provide and shall not be construed to provide third parties with any remedy, claim, liability, reimbursement, cause of action, or other privilege.

U. Referenced Documents

All references to Sections and Appendixes shall be deemed to be references to Sections of, and Appendixes to this Agreement unless the context shall otherwise require. Whenever any provision of this Agreement refers to a technical reference, technical publication, Midcontinent practice, ITC practice, any publication of telecommunications industry administrative or technical standards, or any other document specifically incorporated into this Agreement, it will be deemed to be a reference to the most recent version or edition (including any amendments, supplements, addenda, or successors) of such document

that is in effect, and will include the most recent version or edition (including any amendments, supplements, addenda, or successors) of each document incorporated by reference in such a technical reference, technical publication, Midcontinent practice, ITC practice, or publication of industry standards (unless Midcontinent elects otherwise). Should there be any inconsistency between or among publications or standards, the Parties will discuss any inconsistencies and reach agreement.

V. Publicity and Advertising

Neither Party shall publish or use any advertising, sales promotions or other publicity materials that use the other Party's logo, trademarks or Marks without the prior written approval of the other Party.

W. Amendment

Midcontinent and ITC may mutually agree to amend this Agreement in writing. Since it is possible that amendments to this Agreement may be needed to fully satisfy the purposes and objectives of this Agreement, and the Act, the Parties agree to cooperate promptly, and in good faith, to negotiate and implement any such additions, changes and corrections to this Agreement.

X. Executed in Counterparts

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original; but such counterparts shall together constitute one and the same instrument.

Y. Headings of No Force or Effect

The headings of Articles and Sections of this Agreement are for convenience of reference only, and shall in no way define, modify or restrict the meaning or interpretation of the terms or provisions of this Agreement.

Z. Regulatory Approval

The Parties understand and agree that this Agreement will be filed with the Commission and shall, at all times, be subject to review by the Commission. In the event any such review rejects any portion of this Agreement, renders it inoperable or creates any ambiguity or requirement for further amendment, the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification.

AA. Change of Law

The Parties acknowledge that their relationship is subject to the Act, South Dakota Law, the FCC's regulations implementing the Act and the decisions of the FCC, the Commission and the courts interpreting the Act, South Dakota Law and the FCC's regulations. If, subsequent to the effective date of this Agreement, there is any decision, or change in the Act, South Dakota Law or the FCC's rules that renders any provision of this Agreement unlawful (a "Change of Law"), the Parties agree to meet and negotiate in good faith to arrive at a mutually acceptable modification to the Agreement that is consistent with the law then in effect and, to the extent possible, with the intent of this Agreement. The Parties agree that this provision shall be construed narrowly and that no provision of this Agreement shall be deemed unlawful under this section unless such a result is required by a Change of Law.

BB. Compliance

Each party shall comply with all applicable federal, state, and local laws, rules and regulations applicable to its performance under this Agreement.

CC. Entire Agreement

This Agreement constitutes the entire agreement between the Parties and supersedes all prior oral or written agreements, representations, statements, negotiations, understandings, proposals and undertakings with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective duly authorized representatives.

Midcontinent Communications

By: Nancy A. Voigt
Its: Business Director/Communications

11/10/04
Date

**Interstate Telecommunications
Cooperative, Inc.**

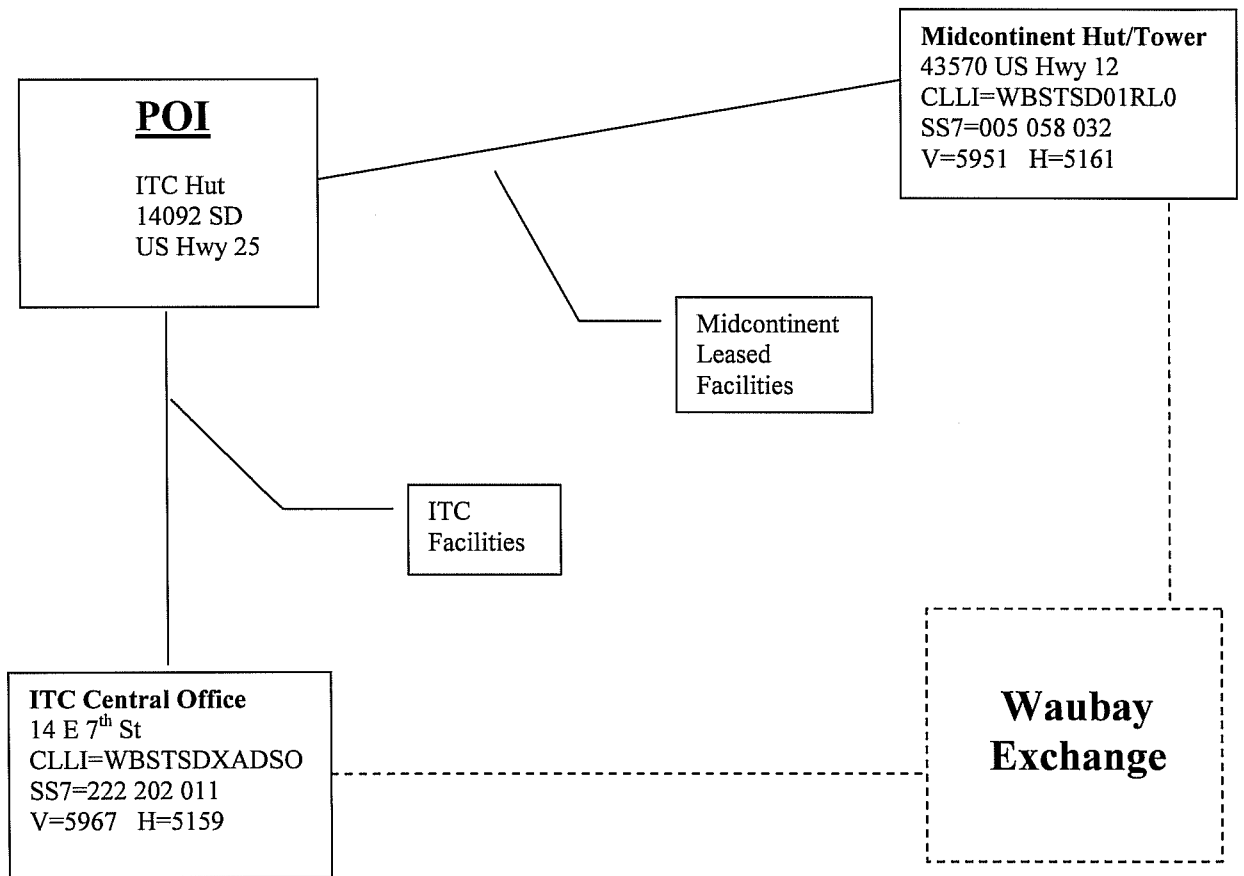
By: Fred Verbeiger
Its: General Manager

November 9, 2004
Date

Appendix A
Rates and Charges

Reciprocal Transport and Termination Rate for Local Traffic- \$0.03 per minute.

Appendix B Physical Point Of Interface (POI)



*Separate Waubay Trunk Groups for Local Traffic and ISP-bound Traffic will be facilitated.

APPENDIX C

1. ITC shall provide interim LNP by using its Remote Call Forwarding service. Pursuant to this Agreement, ITC shall provide interim LNP only for telephone numbers with a "947" NXX in the Waubay, South Dakota exchange.

2. The rates for providing interim LNP shall be a non-recurring central office charge of \$7.50 and a non-recurring service order charge of \$7.50 for each number for which interim LNP is provided.

3. Interim LNP will be operational within 6 days of a request. Each party shall submit requests for interim LNP between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, via electronic transmission.

4. Rates for providing Permanent Disconnects with New Number Referral intercept messaging:

Non-recurring service order charge	\$7.50
Non-recurring central office charge	\$7.50

South Dakota Public Utilities Commission
WEEKLY FILINGS
For the Period of November 11, 2004 through November 17, 2004

If you need a complete copy of a filing faxed, overnight expressed, or mailed to you, please contact Delaine Kolbo within five business days of this report. Phone: 605-773-3201

ELECTRIC

EL04-034 In the Matter of the Filing by Otter Tail Power Company Regarding its Notification of Intent to Apply for a Permit for an Energy Conversion Facility.

On November 12, 2004, Otter Tail Power Company filed a Notice of Intent to submit an application for a permit for an energy conversion facility. The proposed electric generating facility, tentatively named Big Stone II, would be located on a brown field site adjacent to the existing Big Stone Plant unit I. The site is located in Grant County east of Milbank and northwest of Big Stone City, SD. The current plans are to construct a 600 MW electric generating station utilizing a single pulverized coal fired steam generator balanced-draft combustion and a single, reheat steam turbine.

Staff Analyst: Michele Farris/Martin Bettmann
Staff Attorney: Karen E. Cremer
Date Filed: 11/12/04
Intervention Deadline: 12/03/04

GAS AND ELECTRIC

GE04-001 In the Matter of the Filing by MidAmerican Energy Company for Approval of Revised Residential and Commercial Customer Information Pamphlets.

Application by MidAmerican Energy Company to revise its customer information pamphlets given to new customers to reflect rate changes resulting from the recent rate case - Docket NG04-001, the recently approved Interruptible Gas Rate Plan approved in Docket NG04-003 and updated information regarding MidAmerican's Purchased Gas Adjustment and Energy Cost Adjustment sections of the pamphlets.

Staff Analyst: Dave Jacobson
Staff Attorney: Sara B. Harens
Date Filed: 11/15/04
Intervention Deadline: 12/03/04

TELECOMMUNICATIONS

TC04-224 In the Matter of the Filing for Approval of an Interconnection Agreement between Midcontinent Communications and Interstate Telecommunications Cooperative, Inc.

On November 12, 2004, the Commission received a filing for the approval of an Interconnection Agreement between Midcontinent Communications and Interstate Telecommunications Cooperative, Inc. for Waubay, South Dakota. According to the parties, the Agreement "sets forth

the terms, conditions and prices under which the parties agree to provide interconnection and exchange of local traffic over wireline networks within the '947' Waubay, South Dakota exchange." Any party wishing to comment on the Agreement may do so by filing written comments with the Commission and the parties to the Agreement no later than, December 2, 2004. Parties to the Agreement may file written responses to the comments no later than twenty days after the service of initial comments.

Staff Attorney: Sara B. Harens
Date Filed: 11/12/04
Initial Comments Due: 12/02/04

**TC04-225 In the Matter of the Filing by VCI Company for Designation as an Eligible
Telecommunications Carrier.**

On November 15, 2004, VCI Company filed a petition for designation as an Eligible Telecommunications Carrier (ETC) in Qwest Corporation exchanges in South Dakota. VCI Company is a competitive local exchange carrier providing wireline services primarily through the leasing of Unbundled Network Elements.

Staff Analyst: Harlan Best
Staff Attorney: Karen E. Cremer
Date Filed: 11/15/04
Intervention Deadline: 12/03/04

**You may receive this listing and other PUC publications via our website or via internet e-mail.
You may subscribe or unsubscribe to the PUC mailing lists at <http://www.state.sd.us/puc>**

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

IN THE MATTER OF THE FILING FOR) APPROVAL OF AN INTERCONNECTION) AGREEMENT BETWEEN MIDCONTINENT) COMMUNICATIONS AND INTERSTATE) TELECOMMUNICATIONS COOPERATIVE, INC.)	ORDER APPROVING AGREEMENT TC04-224
--	--

On November 12, 2004, the Commission received for approval a filing of an Interconnection Agreement between Midcontinent Communications (Midcontinent) and Interstate Telecommunications Cooperative, Inc. (ITC).

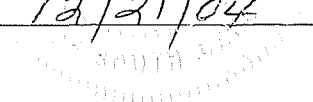
On November 18, 2004, the Commission electronically transmitted notice of this filing to interested individuals and entities. The notice stated that any person wishing to comment on the parties' request for approval had until December 2, 2004, to do so. No comments were filed.

At its duly noticed December 14, 2004, meeting, the Commission considered whether to approve the agreement between Midcontinent and ITC. Commission Staff recommended its approval.

The Commission has jurisdiction over this matter pursuant to SDCL Chapter 49-31, and the Federal Telecommunications Act of 1996. In accordance with 47 U.S.C. § 252(e)(2), the Commission found that the agreement does not discriminate against a telecommunications carrier that is not a party to the agreement and the agreement is consistent with the public interest, convenience, and necessity. The Commission unanimously voted to approve the agreement. It is therefore

ORDERED, that the Commission approves the agreement.

Dated at Pierre, South Dakota, this 17th day of December, 2004.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.
By: <u> Relaine Kolbo </u>
Date: <u> 12/21/04 </u>
 (OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

 Robert K. Sahr
ROBERT K. SAHR, Chairman

 Gary Hanson
GARY HANSON, Commissioner