

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

**IN THE MATTER OF THE PETITION OF
MIDCONTINENT COMMUNICATIONS FOR
APPROVAL OF ITS INTRASTATE SWITCHED
ACCESS TARIFF AND FOR AN EXEMPTION
FROM DEVELOPING COMPANY-SPECIFIC
COST-BASED SWITCHED ACCESS RATES**

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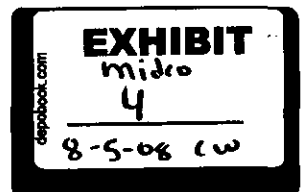
DIRECT TESTIMONY OF

W. TOM SIMMONS

On Behalf Of

MIDCONTINENT COMMUNICATIONS

July 15, 2008



1 **Q. PLEASE STATE YOUR NAME FOR THE RECORD:**

2 **A. W. Thomas Simmons**

3 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

4 **A. I am employed by Midcontinent Communications as the Senior Vice President of**
5 **Public Policy.**

6 **Q. WHAT ARE YOUR CURRENT RESPONSIBILITIES?**

7 **A. I am the corporate officer responsible for regulatory, government and community**
8 **affairs, public and media relations, and represent our telephone, cable and Internet**
9 **product teams on policy issues.**

10 **Q. WHAT IS YOUR EDUCATIONAL AND PROFESSIONAL**
11 **BACKGROUND?**

12 **A. I hold a Bachelor and Masters degrees in Psychology and have been a**
13 **Midcontinent Vice President since 1989. My first Midcontinent assignment was**
14 **with the broadcast division as a general manager of four South Dakota radio**
15 **stations. In 1995, I joined the telecommunications division, Midco**
16 **Communications, as their general manager. From 1995 to 2001, I led the team**
17 **that developed our local exchange operation, guided the process for our certificate**
18 **of authority granted by the Commission and negotiated the initial interconnections**
19 **agreements with other carriers.**

20 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THIS COMMISSION?**

21 **A. Yes. I have participated in numerous issues and meetings, formally filing**
22 **testimony "In the Matter of the Establishment of Switched Access rates for U S**

1 WEST Communications, Inc”, Docket TC 96-107, “In the Matter of the Analysis
2 of Qwest Corporation’s Compliance With Section 271c of the
3 Telecommunications Act of 1996”, Docket TC 01-165, “In the Matter of the
4 Application of Qwest Corporation to Reclassify Local Exchange Services as Fully
5 Competitive”, Docket TC 03-057 and in Midcontinent Communications’ “Motion
6 to Compel Local Number Porting or Good Faith Negotiation”, Docket TC03-192.

7 **Q. WHAT ISSUES DOES THIS TESTIMONY ADDRESS?**

8 **A.** The purpose of my testimony is to provide information to the Commission from
9 Midcontinent’s position that may assist the Commission in deciding whether to
10 grant this petition for switched access rates. Warren Fischer of QSI Consulting,
11 Inc. (“QSI”) addresses the cost study development process undertaken by
12 Midcontinent in detail.

13 **Q. WHAT ARE MIDCONTINENT’S CONCERNS?**

14 **A.** In our initial filing as a local exchange provider, Midcontinent filed for an
15 exemption and has filed for subsequent continuation of the exemption from
16 developing company specific cost based switched access rates. Since 2002,
17 Midcontinent has mirrored the Qwest intrastate switched access rates. When we
18 became aware of variations in accepted switched access rates filed by other South
19 Dakota CLECs, it became apparent that we may need to modify our approach and
20 request equal treatment by the Commission for acceptance of our switched access
21 tariff. Through discussions with Commission Staff we learned that there would
22 be resistance on the part of the Staff to recommend approval of allowing our rates
23 to match those of other CLECs. The only reason we could discern was that

1 developing consistent and fair rates for all CLECs would involve an increase for
2 Midcontinent at a time Staff said they were working to reduce the rates of other
3 CLECs. Apparently, the Staff was asking Midcontinent to hold on until rates of
4 others were renegotiated or there was a conclusion of a rule making proceeding
5 (RM 05-002). If that was not acceptable to Midcontinent, the only alternative
6 available was to develop company-specific switched access rates.

7 **Q. DID MIDCONTINENT DEVELOP COMPANY-SPECIFIC SWITCHED**
8 **ACCESS RATES?**

9 **A.** Yes, although as Mr. Fischer notes in his testimony, the resulting rate is only a
10 conservative estimate and is not a definitive determination of Midcontinent's cost
11 of providing intrastate switched access service in South Dakota. While the FCC
12 does not require CLECs to file cost studies, at great expense to Midcontinent, we
13 hired QSI to assist us in developing company-specific switched access rates. QSI
14 undertook the project understanding that Midcontinent does not use the Uniform
15 System of Accounts. Midcontinent uses GAAP¹ accounting. QSI mapped
16 Midcontinent accounts to the Uniform System of Accounts construct preferred by
17 the Commission and developed company-specific switched access rates. These
18 rates were presented to Commission Staff at a meeting in April 2007. At that
19 meeting Midcontinent heard Staff's concerns, and we reviewed our entire cost
20 study development process to make the necessary changes to the LECA model-
21 based cost study used by Midcontinent as suggested by Staff. This modified
22 version was provided to Commission Staff in January of 2008. Midcontinent

1 along with its consultants from QSI met with Commission Staff in a face-to-face
2 meeting in April 2008.

3 **Q. WHAT IS THE CURRENT STATUS?**

4 **A.** Since the meeting in April 2008, we understand there have been numerous
5 discussions between Staff and Midcontinent's counsel on where to go from here.
6 For a time, Midcontinent was placed on hold pending negotiations with other
7 CLECs. There was a concern that if Midcontinent pressed the issue, it would
8 somehow interfere with negotiated rates with other CLECs. In the meantime,
9 Midcontinent continues to operate with switched access rates far below those of
10 other CLECs operating in Midcontinent communities. Midcontinent has worked
11 on reaching a settlement of its switched access rate issue, but to date our
12 combined efforts have failed.

13 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

14 **A.** Given the extraordinary expense sacrificed by Midcontinent, the only CLEC that
15 has been willing to take on this task, and the number of months devoted to this
16 issue with no solution, we must ask that it be resolved by the Commission. While
17 other CLECs took advantage of the statewide average LECA Plus rate within the
18 rules and were granted approval, Midcontinent has been denied. We believe we
19 have taken measures far beyond that of any other CLEC to demonstrate
20 justification for approval of our switched access rate tariff. We also have
21 demonstrated extraordinary patience in working with Commission Staff to resolve
22 the issue, but have come to no conclusion. We ask now that the Commission

¹ This acronym abbreviates Generally Accepted Accounting Principles.

1 acknowledge our efforts in proving our costs and adopt our cost study on the
2 grounds of fairness so we may compete with the rural LEC-owned CLECs that
3 have enjoyed substantially higher rates for quite some time.

4 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

5 **A. It does.**