

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

IN THE MATTER OF THE FILING BY)	TC09-022
RC COMMUNICATIONS, INC., FOR AN)	
EXTENSION OF AN EXEMPTION FROM)	MIDCONTINENT'S
DEVELOPING COMPANY SPECIFIC COST-)	PETITION TO INTERVENE
BASED SWITCHED ACCESS RATES)	

COMES NOW Midcontinent Communications ("Midcontinent") and moves to intervene in the captioned docket, as follows:

1. Midcontinent is a certificated CLEC providing telecommunications services in the Qwest exchanges. Petitioner is likewise a certificated competitive local exchange carrier providing telecommunications services in the Qwest Exchanges. The two companies compete in the Watertown exchange and in the Corona portion of the Milbank exchange.

2. Petitioner, by its petition seeks to continue to use the stipulated rate of \$0.1150 beyond its expiration of May 15, 2009. This is justified at least in part on the theory that the Commission's rulemaking docket, opened in 2005, has not yet produced CLECs access rate rules. That cannot be a justification based upon past usage. The Commission has historically used its ILEC switched access rules to govern CLEC switched access rates. One needs look no further than the initial approval of RC's CLECs access rates in Docket TC06-001.

3. RC refers to Midcontinent's switched access rate docket, TC07-117, and declares that the Commission has determined that there are no Commission rules in effect providing a cost study. No such formal finding was made in that or any other docket. Midcontinent was ordered to file its tariff and have its cost study further reviewed by Staff.

4. The Commission has an obligation to treat CLECs in the same manner. Given prior rulings by the Commission to the effect that CLECs should use the incumbent switched access rate this rule should be applied in this instance. Commission Staff has taken the

position that allowing certain CLECs to charge a significantly higher rate “. . . ignores the fact that it would put [that CLEC] at a huge competitive advantage over the other CLECs and Qwest . . .” If Petitioner is allowed to continue charging a rate almost twice as much as Qwest, both Qwest and Midcontinent will be harmed.

5. Midcontinent is a CLEC which competes across the state with various other CLECs as well as with incumbent carriers. Midcontinent has an interest in the outcome of this proceeding because it has a keen interest in robust and fair competition in all telecommunications exchanges throughout the state. As such, the outcome of this proceeding will have a direct impact upon the business interests of Midcontinent and it, therefore, has a business interest peculiar to its status as a telecommunications carrier competing against other carriers in the marketplace. Intervention therefore lies under ARSD 20:10:01:15.05.

WHEREFORE Midcontinent prays that intervention be granted for it to participate in the docket and protect the interests of Midcontinent and similarly-situated carriers.

Dated this 19th day of May, 2009.

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CERTIFICATE OF SERVICE

David A. Gerdes of May, Adam, Gerdes & Thompson LLP hereby certifies that on the 19th day of May, 2009, he filed

electronically and e-mailed a true and correct copy of the foregoing in the above-captioned action to the following at their last known addresses, to-wit:

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