

RICHARD A. CUTLER
KENT R. CUTLER
BRIAN J. DONAHOE *#
STEVEN J. SARBACKER **
JAYNA M. VOSS
MICHAEL D. BORNITZ †
TRENT A. SWANSON *
RYAN J. TAYLOR °
KIMBERLY R. WASSINK
MEREDITH A. MOORE
DAVID L. EDWARDS
NATHAN S. SCHOEN †
ONNA B. DOMINIACK #
AMY L. ELLIS ^
NICHOLE MOHNING ROTHs *
WILLIAM D. SIMS #
BOBBI L. THURY *
DANIEL J. DOYLE

CUTLER & DONAHOE, LLP
ATTORNEYS AT LAW

Telephone (605) 335-4950

Fax (605) 335-4961

www.cutlerlawfirm.com

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JEAN BROCKMUELLER, CPA (Inactive)
BUSINESS MANAGER

*Also licensed to practice
in Minnesota

#Also licensed to practice
in Iowa

‡Also licensed to practice
in Nebraska

+Also licensed to practice
in Missouri

^Also licensed to practice
in Colorado

× Also licensed to practice
in Kansas

†Admitted to practice in
United States Tax Court

°Also licensed as a
Certified Public Accountant

VIA EMAIL TO PATTY.VANGERPEN@STATE.SD.US

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
Capitol Building, 1st Floor
500 East Capitol Avenue
Pierre, SD 57501-5070

Re: TC09-014

*In the Matter of the Application of SSTELECOM, Inc. for Approval of a Motion
for the Extension of Its Current Exemption From Developing Company Specific
Cost-Based Switched Access Rates*

Dear Ms. Van Gerpen:

Please find attached for filing in the above matter, SSTELECOM, Inc.'s Objection to Midcontinent's Petition to Intervene.

As indicated above, this document has been sent to you via electronic mail in PDF form. If you have any questions or concerns regarding this document, please do not hesitate to contact me.

Best regards.

Sincerely,

CUTLER & DONAHOE, LLP



Meredith A. Moore
For the Firm

MAM/cmc
Attachment
cc: Service List

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION
OF SSTELECOM, INC. FOR APPROVAL
OF A MOTION FOR THE EXTENSION OF
ITS CURRENT EXEMPTION FROM
DEVELOPING COMPANY SPECIFIC
COST-BASED SWITCHED ACCESS RATES

TC09-014

OBJECTION TO MIDCONTINENT'S
PETITION TO INTERVENE

COMES NOW SSTELECOM, Inc. ("SSTELECOM"), by and through its counsel of record and, pursuant to A.R.S.D. 20:10:01:15:04, hereby submits the following answer and objection to the Petition to Intervene filed by Midcontinent Communications ("Midcontinent") on April 13, 2009.

BACKGROUND

On April 3, 2009, SSTELECOM filed a Motion seeking an extension of its current exemption from the requirement of developing company specific cost-based switched access rates pursuant to A.R.S.D. 20:10:27:11. SSTELECOM filed this request because its current exemption is set to expire in May 2009. Because of the anticipated release of proposed rules relating specifically to the development of access costs for competitive local exchange carriers ("CLECs"), SSTELECOM did not believe it would be efficient, from both a time and cost standpoint, to either develop a cost study or renew its request for a long-term extension of its current exemption and rate.

OBJECTION

On April 13, 2009, Midcontinent filed a Petition to Intervene in the docket involving SSTELECOM's Motion for Extension of Exemption. The relevant rules require that a party seeking intervention establish that it is "specifically deemed by statute to be interested in the matter involved, that [it] is specifically declared by statute to be an interested party to the

proceeding, or that by the outcome of the proceeding the petitioner will be found and affected either favorably or adversely with respect to an interest peculiar to the petitioner[.]” A.R.S.D. 20:10:01:15.05. In support of its claim that it is an interested party within the meaning of this rule, Midcontinent argues the following:

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 the telecommunications exchanges throughout the state. As such, the outcome of this proceeding will have a direct impact upon the business interest of Midcontinent and it, therefore, has a business interest peculiar to its status as a telecommunications carrier competing against other carriers in the marketplace.

See Petition to Intervene at ¶6.

Under the relevant standard, Midcontinent must do more than merely recite that it is an interested party. However, it has not done so. Midcontinent cites to no statute within which it is deemed an interested party nor does it cite to a specific statute which declares it to be an interested party. Midcontinent further fails to specify how this Commission’s ruling on SSTELECOM’s request for an exemption will bind Midcontinent or affect it in either an adverse or favorable manner.

In attempts to establish an interest justifying intervention, Midcontinent posits that this Commission has an obligation to treat CLECs in the same manner so as to ensure fair competition. See Petition to Intervene, ¶5. SSTELECOM does not disagree with this assertion. However, SSTELECOM’s docket does not change or challenge any obligation that the Commission may have to CLECs or incumbent LECs. To the contrary, SSTELECOM’s request for a limited extension of its current exemption is simply a request to maintain the status quo until such time as the proposed rules are released and adopted. The current request for an extension recognizes the current climate at the Commission as it relates to the development of rules to govern CLEC access rates. The request seeks an opportunity for additional time so that

SSTELECOM may review and understand those rules so as to determine its future obligations thereunder.

Any arguments that Midcontinent has with regard to this Commission's treatment of CLECs and other similarly situated carriers are best addressed in Docket TC07-117. SSTELECOM is aware that Midcontinent has filed a request to amend its intrastate access tariff, which petition has been pending for some time. SSTELECOM submits that Midcontinent's own docket is the appropriate vehicle in which Midcontinent can litigate issues relating to the development of switched access rates and the policies relating thereto. It is not appropriate for Midcontinent to litigate those same issues within SSTELECOM's docket as it will likely only lead to increased expenditures of time and money on the part of all of the parties.

There is an easily recognizable distinction between Dockets TC07-117 and TC09-114 which should not be ignored. SSTELECOM has already received authority from this Commission for its exemption and switched access rate, whereas Midcontinent currently seeks to obtain a rate higher than that which it now charges. Interestingly, Midcontinent did not file a Petition to Intervene in Docket TC05-223, which was the docket through which SSTELECOM originally requested its certificate of authority, exemption and approval of its current switched access rate. It is that docket which established SSTELECOM's current exemption from the development of and approved its current switched access rate. As such, Midcontinent's attempt to intervene in this docket is tantamount to a collateral attack on what has already been deemed a valid and legal request by SSTELECOM.

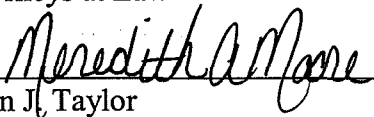
CONCLUSION

Midcontinent has not satisfactorily shown that the resolution of SSTELECOM's current docket will have a long-term impact on Midcontinent's business interests or the competitive market in South Dakota. SSTELECOM's request for an extension is aimed specifically at best-

handling the fact situation which currently exists. The extension of the exemption requested is necessarily limited in scope by the resolution of the current rulemaking docket. Accordingly, for those reasons set forth above, SSTELECOM requests that this Commission deny Midcontinent's Petition to Intervene.

Dated this 17th day of April, 2009.

CUTLER & DONAHOE, LLP
Attorneys at Law



Ryan J. Taylor
Meredith A. Moore
Cutler & Donahoe, LLP
100 N. Phillips Ave., Ste. 901
Sioux Falls, SD 57104
Attorneys for SSTELECOM, Inc.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served electronically on the 17th day of April, 2009, upon the following:

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501
patty.vangerpen@state.sd.us
Telephone: 605-773-3201

Mr. David Gerdes
May, Adam Gerdes & Thompson, LLP
PO Box 160
Pierre, SD 5750
dag@magt.com
Telephone: 605-224-8803

Ms. Karen E. Cremer
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501
karen.cremer@state.sd.us
Telephone: 605-773-3201

Ms. Terri Labrie Baker
Staff Analyst
South Dakota Public Utilities Commission
500 East Capitol
Pierre, SD 57501
terri.labriebaker@state.sd.us
Telephone: 605-773-3201



One of the Attorneys for
SSTELECOM, Inc.