

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE APPLICATION
OF MIDCONTINENT COMMUNICATIONS
FOR AN AMENDED CERTIFICATE OF
AUTHORITY TO PROVIDE LOCAL
EXCHANGE SERVICE IN THE LENNOX
RURAL SERVICE AREA

TC 12-035

AMENDED APPLICATION FOR
AMENDED CERTIFICATE OF
AUTHORITY

I. INTRODUCTION

Midcontinent Communications files this Amended Application to amend its certificate of authority to provide local exchange service in the rural exchange area of Lennox, South Dakota pursuant to ARSD 20:10:32:03, 20:10:32:15 and 20:10:32:18.

APPLICATION FOR AMENDED CERTIFICATE OF AUTHORITY

- 1. The Applicant's name, address, telephone number, facsimile number, web page URL, and E-mail address (ARSD 20:10:32:03(1)):**

Midcontinent Communications
3901 N Louise Avenue
Sioux Falls, SD 57107
Phone: 800-888-1300
Fax: (605)330-4083
URL: www.midcocomm.com
E-mail: midcocomm.midco.net

- 2. A description of the legal and organizational structure of the applicant's company (ARSD 20:10:32:03(2)):**

Midcontinent Communications is a South Dakota General Partnership. Its partners are:

Midcontinent Communications Investor, LLC
3600 Minnesota Drive, Suite 700
Edina, MN 55435

Comcast Midcontinent LLC
1701 John F Kennedy Blvd.
Philadelphia PA 19103-2838

Midcontinent Communications Investor, LLC is the managing partner of the partnership.

Ownership is in equal shares (50-50).

- 3. The name under which the applicant will provide local exchange services if different than in subdivision (1) of this section (ARSD 20:10:32:03(3)):**

Midcontinent Communications

- 4. The location of the applicant's principal office, if any, in this state and the name and address of its current registered agent, if applicable (ARSD 20:10:32:03(4)):**

3901 N Louise Avenue
Sioux Falls, SD 57107
Phone: 800-888-1300
Fax: (605)330-4083

Registered Agent is:

W. Thomas Simmons
3901 N. Louise Avenue
Sioux Falls, SD 57107

- 5. A copy of its certificate of authority to transact business in South Dakota from the secretary of state (ARSD 20:10:32:03(5)):**

A copy of Midcontinent's certificate of authority is attached as Exhibit A.

- 6. A description of the applicant's experience providing any telecommunications services in South Dakota or in other jurisdictions, including the types of services provided, and the dates and nature of state or federal authorization to provide the services (ARSD 20:10:32:03(6)):**

The present Midcontinent Communications was originally certificated as MidcoTel in 1982 as a provider of interexchange service in South Dakota. MidcoTel became Midco Communications, and Midco Communications filed for and received a certificate to provide resold local exchange service in South Dakota in 1997 and a facilities based certificate in 1999.

Midcontinent Media was the parent company of Midco Communications. Another division of Midcontinent Media was Sioux Falls Cable. Sioux Falls Cable filed for and

received a certificate as a local exchange carrier in 1999. In 2000, Sioux Falls Cable and Midco Communications merged to Midcontinent Communications and a new certificate was granted September 2000.

Midcontinent Communications is also certificated in North Dakota for local and long distance services. The company received a certificate for resold services in 1998 and facilities in 1999.

In 2000, Midcontinent Communications G.P. applied for and received a certificate of authority in Minnesota for resold local service. In 2007, a new certificate was issued due to a name change to Midcontinent Communications and to include facilities based services. Midcontinent is also certificated for long distance service in Minnesota.

7. Names and addresses of applicant's affiliates, subsidiaries and parent organizations, if any (ARSD 20:10:32:03(7)):

The parent companies of Midcontinent Communications are noted in 2 above. The parent organizations are indirect wholly-owned subsidiaries of Comcast and Midcontinent Media, Inc., respectively. In addition to Midcontinent Communications, other Midcontinent Media subsidiaries include:

Midcontinent Corporation
Midco Call Center Services, Inc.
Midcontinent Media Foundation
Midcontinent Broadcasting Co.
Midcontinent Communications Investor, LLC

8. A list and specific description of the types of services the applicant seeks to offer and how the services will be provided including (ARSD 20:10:32:03(8)):

- (a) Information indicating the classes of customers the applicant intends to serve;**
- (b) Information indicating the extent to and time-frame by which applicant will provide service through the use of its own facilities, the purchase of unbundled network elements, or resale;**
- (c) A description of all facilities that the applicant will utilize to furnish the proposed local exchange services, including any facilities of underlying carriers; and**
- (d) Information identifying the types of services it seeks authority to provide by reference to the general nature of the service.**

Midcontinent Communications is currently certificated to provide local exchange and long distance services throughout the state of South Dakota in the CenturyLink service areas, the ITC exchanges of Webster and Waubay, Santel's exchange in Wolsey, Knology's exchange in Gayville, and Alliance exchanges in Baltic and Crooks. In the Lennox exchange Midcontinent will use a hybrid fiber coax (HFC) network of its cable plant to provide primary transport for residential telephone services. In addition to providing local exchange services for commercial and residential customers, Midcontinent also provides intrastate interexchange services for commercial and residential customers and interstate interexchange services for commercial and residential customers, which will be available in Lennox.

By this application, Midcontinent seeks to provide local exchange service in the Lennox exchange of Knology as depicted on the Map accompanying this application. Knology is offering cable service in this exchange. Midcontinent currently provides data services in Lennox.

Midcontinent first provisioned service from its own facilities in the Qwest/CenturyLink exchanges in 2000, and in 2006 Midcontinent began provisioning services using Internet Protocol.

ARSD 20:10:32:15 requires Midcontinent, by seeking authority to provide local exchange service in the service area of a rural telephone company, to satisfy the service requirements imposed on eligible telecommunications carriers pursuant to 47 U.S.C. § 214(a)(1) and applicable federal regulations. This section further permits application for a waiver under ARSD 20:10:21:18. An Application for Waiver is filed simultaneously herewith.

Midcontinent is able to satisfy the local exchange service obligations provided in ARSD 20:10:32:10, as well as those provided in 47 U.S.C. § 214(e)(1). However, to the extent that service of less than the entire study area of Knology requires a waiver, Midcontinent requests such a waiver under ARSD 20:10:32:18. At the present time, Midcontinent applies only to provide local exchange services in the Lennox exchange as depicted on the Map accompanying this application.

Midcontinent satisfies the ETC requirements as follows:

(1) Voice grade access to the public switched telephone network

Midcontinent's intent is to provision services in Lennox through Midcontinent's facilities switched from Midcontinent's Sioux Falls switch which is a Genband

CS2K switch that acts as the host switch for our Digital Phone service; it is a class 4/5 switch. It is capable of providing local dial tone as well as standard calling features such as call forwarding, call waiting, caller identification, three-way calling, speed calling, and call transfer.

(2) *Local usage meaning a prescribed amount of minutes of use of exchange service provided free of charge to end users*

Midcontinent Communications charges a flat monthly service fee for local service with no limit to the number of calls made or received, or minutes of usage.

(3) *Dual tone multi-frequency signaling or its functional equivalent*

Midcontinent will provide DTMF signaling for all customers in the Lennox exchange.

(4) *Single-party service or its functional equivalent*

Midcontinent Communications provides only single-party service in all areas served.

(5) *Access to emergency services*

Midcontinent Communications intends to have agreements and connectivity to all appropriate Public Safety Answering Points

(6) *Access to operator services*

Midcontinent Communications provides operator services to all customers through National Directory Assistance (NDA). This agreement provides all Midcontinent customers access to 0- and 0+ services.

(7) *Access to interexchange service*

Midcontinent Communications has provided interexchange service in South Dakota since 1982. Long distance and toll free services are resold through a carrier(s) where a negotiated agreement has been reached so a fair and reasonable rate may be given to the end user.

Equal access will also be provided to other long distance carriers.

(8) *Access to directory assistance*

Midcontinent Communications has an agreement with National Directory Assistance (NDA) for directory assistance.

(9) *Toll limitation for qualifying low-income consumers*

Midcontinent Communications participates in the Telephone Assistance Program. The ability to request toll restriction is available.

9. A service area map or narrative description indicating with particularity the geographic area proposed to be served by the applicant (ARSD 20:10:32:03(9)):

In addition to Midcontinent's current certificated territory, attached as Exhibit B is a Map of the Lennox exchange which Midcontinent proposes to serve. Additionally, attached as Exhibit C is a Midcontinent facilities map, showing Midcontinent's facilities in the state of South Dakota.

10. Information regarding the technical competence of the applicant to provide its proposed local exchange services including (ARSD 20:10:32:03(10)):

- (a) A description of the education and experience of the applicant's management personnel who will oversee the proposed local exchange services; and**
- (b) Information regarding policies, personnel, or arrangements made by the applicant which demonstrates the applicant's ability to respond to customer complaints and inquiries promptly and to perform facility and equipment maintenance necessary to ensure compliance with any Commission quality of service requirements.**

Midcontinent Communications Management Team is in Exhibit D.

11. Information explaining how the applicant will provide customers with access to emergency services such as 911 or enhanced 911, operator services, interexchange services, directory assistance, and telecommunications relay services (ARSD 20:10:32:03(11)):

Midcontinent will provide its customers in Lennox with access to emergency services, 911 and E911, by direct redundant trunks to the 911 service center (PSAP).

Operator services and directory assistance will be provided through an agreement Midcontinent has with National Directory Assistance (NDA)

Interexchange services will be provided using an interconnected agreement for trunking with various providers for intrastate traffic and using interconnected agreements with national interstate interexchange carriers.

Telecommunications Relay Service calls will be routed to the state service provider of that service.

- 12. For the most recent 12 month period, financial statements of the applicant consisting of balance sheets, income statements, and cash flow statements. The applicant shall provide audited financial statements, if available (ARSD 10:10:32:03(12)):**

See financial statements included as Confidential Exhibit E. Midcontinent respectfully requests confidential treatment of all financial disclosures.

- 13. Information detailing the following matters associated with interconnection to provide proposed local exchange services (ARSD 20:10:32:03(13)):**

- (a) The identity of all local exchange carriers with which the applicant plans to interconnect;**
- (b) The likely timing of initiation of interconnection service and a statement as to when negotiation for interconnection started or when negotiations are likely to start; and**
- (c) A copy of any request for interconnection made by the applicant to any local exchange carrier.**

Midco Communications completed its Agreement for Service Resale with Qwest Communications, n/k/a CenturyLink on August 29, 1997 and its Interconnection Agreement with Qwest Communications, which incorporated the earlier resale agreement, on March 1, 1999. In SD PUC Docket TC99-023, "In the Matter of the Filing by Qwest Communications, Inc. for Approval of an Interconnection Agreement Between Midco Communications, Inc. d/b/a Midcontinent Communications and Qwest Communications, Inc., the Commission approved the negotiated agreement on May 5, 1999.

In the area applied for (see Exhibit B) Midcontinent intends to provide local exchange service where facilities are available and provisioned through an interconnection agreement with Knology.

The Interconnection Agreement between Midcontinent and Knology applicable to the Lennox exchange is attached hereto as Exhibit F. The Recitals in Section I of the Interconnection Agreement states that the agreement is applicable to DKI service areas. However, DKI is not defined in the agreement. Following submission of this agreement to the PUC, a question was raised about the reference to DKI. Pat Mastel, former in-house counsel to PrairieWave n/k/a Knology, sent a letter explaining the reference to DKI. This letter was followed up with a letter to the Commission from Midcontinent's counsel, explaining that the entities to the agreement were McLeodUSA Telecom Development, Inc. and Dakota Community Telephone, Inc. Mr. Mastel's letter explained that the ACNA code for these two companies was DKI and that they were predecessor companies to the old Dakota Telecommunications Group (DTG) ILEC-CLEC entities. The letter from Mr. Mastel and the letter to the Commission are attached hereto as Exhibit F1.

To complete the explanation, it is clear from a PUC order in 1997 designating Dakota Telecommunications Group as an ETC, that DTG territory included the Lennox exchange. That order is attached hereto as Exhibit F2.

It is clear from these documents that the "DKI" reference in the Interconnection Agreement between Midcontinent and Knology includes the Lennox territory of Knology Community Telephone, Inc. Lennox was originally part of the DTG, which later became Dakota Community Telephone, Inc. Later, the company's name was changed to PrairieWave Community Telephone, Inc. and is now Knology Community Telephone, Inc. Because there is an Interconnection Agreement in place that applies to the Lennox exchange, Knology has waived the protections of the rural exemption contained in 47 U.S.C. § 251(f)(1). Clearly interconnection between Midcontinent and Knology Community Telephone is technically feasible and is not unduly economically burdensome as such interconnection already exists pursuant to this agreement.

- 14. A description of how the applicant intends to market its local exchange services, its target market, whether the applicant engages in multilevel marketing, and copies of any company brochures that will be used to assist in sale of the services (ARSD 20:10:32:03(14)):**

Midcontinent Communications markets local exchange services primarily through trained sales personnel. Midcontinent intends to offer local exchange services to residential and commercial customers through direct marketing, either by mail or by direct contact by a Midcontinent representative, or through Midcontinent's inbound sales agents. Midcontinent does not use out-bound telemarketing campaigns by third parties, or multi-

level marketing. A copy of Midcontinent's 2011 pricing plan and various marketing materials are provided in the form of Exhibits G, H, and I and J.

- 15. If the applicant is seeking authority to provide local exchange service in the service area of a rural telephone company, the date by which the applicant expects to meet the service obligations imposed pursuant to 20:10:32:15 and the applicant's plan for meeting the service obligations (ARSD 20:10:32:03(15)):**

By this application, Midcontinent is seeking authority to provide local exchange service in the Lennox exchange of Knology's service area as depicted on Exhibit B. Midcontinent is currently able to provide those services enumerated in response to paragraph 8 of this application, and proposes to begin service within 180 days of the Commission's favorable consideration of the application.

- 16. A list of states in which the applicant is registered or certified to provide telecommunications services, whether the applicant has ever been denied registration or certification in any state and the reasons for any such denial, a statement as to whether or not the applicant is in good standing with the appropriate regulatory agency in states where it is registered or certified, and a detailed explanation of why the applicant is not in good standing in a given state, if applicable (ARSD 20:10:32:03(16)):**

In addition to being certificated in South Dakota, as indicated above, Midcontinent is also certificated in North Dakota and Minnesota for commercial and residential intrastate and interstate interexchange services. Midcontinent is also certificated in North Dakota and Minnesota for local exchange services in CenturyLink and other rural carrier areas. No Midcontinent application for state certification has been denied, and Midcontinent is in good standing with the regulatory agency in each state where it holds a state certification.

- 17. The names, addresses, telephone numbers, e-mail addresses, and facsimile numbers of the applicant's representatives to whom all inquiries must be made regarding customers complaints and other regulatory matters (ARSD 20:10:32:03(17)):**

Complaints should be directed to:

Marj Johnson
Midcontinent Communications
3901 N Louise Avenue
Sioux Falls, SD 57107
Phone: (800) 888-1300
Fax: (605) 330-4083
e-mail: midcocomm.midco.net

Or escalated to:

Mary Lohnes
Regulatory Affairs Manager
3901 N Louise Avenue
Sioux Falls, SD 57107
Phone: (605) 357-5459
Fax: (605) 330-4083
e-mail: mary_lohnes@mmi.net

Regulatory matters should be directed to:

Mary Lohnes
Regulatory Affairs Manager
3901 N Louise Avenue
Sioux Falls, SD 57107
Phone: (605) 357-5459
Fax: (605) 330-4083
e-mail: mary_lohnes@mmi.net

18. Information concerning how the applicant plans to bill and collect charges from customers who subscribe to its proposed local exchange services (ARSD 20:10:32:03(18)):

Midcontinent prepares its own bills and submits them to customers monthly, usually by U.S. Mail. Customers also have the option to receive statements electronically. Payment is due within 15 days of receipt. Accounts are considered past due 30 days after the billing date. Past due accounts are charged \$5.00 per month on outstanding balances. More detailed information concerning Midcontinent's billing procedures is provided in Section 4.1 of the tariff attached to this application as Exhibit K.

19. Information concerning the applicant's policies relating to solicitation of new customers and a description of the efforts the applicant shall use to prevent the unauthorized switching of local service customers by the applicant, its employees or agents (ARSD 20:10:32:03(19)):

Midcontinent customers will be switched to Midcontinent upon written request or through an order placed through its contracted third party verification company. The switching will be handled in a professional and expeditious manner. Only those customers requesting to have Midcontinent as their service provider will be switched. Midcontinent has not, and will not, practice "slamming". Errors, however, can occur. If Midcontinent is informed that a party is switched to Midcontinent in error, that party will be switched back to their previous provider as quickly as possible, and at no cost.

- 20. The number and nature of complaints filed against the applicant with any state or federal commission regarding the unauthorized switching of a customer's telecommunications provider and the act of charging customers for services that have not been ordered (ARSD 20:10:32:03(20)):**

None

- 21. Information concerning how the applicant will make available to any person information concerning the applicant's current rates, terms, and conditions for all of its telecommunications services (ARSD 20:10:32:03(21)):**

Midcontinent's local exchange tariff is on file in Midcontinent's Sioux Falls office. In addition, Midcontinent's terms and conditions of service are available on Midcontinent's website at www.midcocomm.com. Terms and conditions are sent to customers annually with Midcontinent's annual notice and are also available to any person in written form by request.

- 22. Information concerning how the applicant will notify a customer of any materially adverse change to any rate, term, or condition of any telecommunications service being provided to the customer. The notification must be made at least thirty days in advance of the change (ARSD 20:10:32:03(22)):**

Depending on the applicable change, Midcontinent sends notices to customers through bill inserts, bill notices, and/or by separate letter.

- 23. A written request for waiver of those rules believed to be inapplicable (ARSD 20:10:32:03(23)):**

A written request for a waiver of rules is filed separately with this application.

- 24. Federal tax identification number and South Dakota sales tax number (ARSD 20:10:32:03(24)):**

The Federal Tax ID for Midcontinent Communications is 41-1957148. SD sales tax number is 1013-3871-STC.

Dated this 24th day of May, 2012.

DAVENPORT EVANS HURWITZ & SMITH, LLP

BY: 

Kathryn E. Ford

Attorneys for Midcontinent

206 West 14th Street

P.O. Box 1030

Sioux Falls, South Dakota 57104

Telephone: (605)357-1246

Telefax: (605)335-3639

CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Midcontinent Communications, hereby certifies that a true and correct copy of the foregoing Application for Amended Certificate of Authority was served by United States mail, first class postage thereon paid, upon the following:

Knology Community Telephone

Mr. Bruce Schoonover

Director, Regulatory

1241 O.G. Skinner Drive

West Point, GA 31833

E-mail: bruce.schoonover@knology.com

Ms. Patricia Van Gerpen

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500 E. Capitol Ave.

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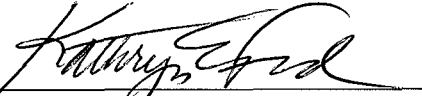
Mr. Patrick Steffensen

Staff Analyst

South Dakota Public Utilities Commission

500 E. Capitol Ave.
Pierre, SD 57501
E-Mail: Patrick.steffensen@state.sd.us

Dated this 24th day of May, 2012.



Kathryn E. Ford