
STAFF MEMORANDUM

TO: COMMISSIONERS AND ADVISORS
FROM: ERIC PAULSON AND KRISTEN EDWARDS
RE: TC18-058 - In the Matter of the Application of Midcontinent Communications for an Amended Certificate of Authority to Provide Local Exchange Service in Defined Census Blocks Within Rural Areas in Moody, Davison, Minnehaha, Hanson, Beadle, Kingsbury and Codington Counties and for a Waiver of ARSD 20:10:32:15
DATE: 1/16/18

BACKGROUND

On October 22, 2018, the Commission received a petition from Midcontinent Communications (Midco) for an amended certificate of authority to provide local exchange service in certain census blocks in South Dakota as well as requesting a waiver of ARSD 20:10:32:15.

Midco has been awarded Connect America Fund II (CAF II) funding from the Federal Communications Commission (FCC) and is required to obtain eligible telecommunications carrier (ETC) status in all of the census blocks in which Midco was awarded CAF II funding (CAF II Census Blocks) (see attached Exhibit 1 for listing of awarded blocks).

On November 9, 2018, Venture Communications Cooperative, Santel Communications Cooperative, Interstate Telecommunications Cooperative, Inc. filed a Joint Petition to Intervene and SDTA also filed a petition to intervene in this docket.

On January 4, 2019, a Joint Stipulation for Settlement was filed in the docket and is a settlement agreement between all intervening parties, Venture Communications Cooperative, Santel Communications Cooperative, Interstate Telecommunications Cooperative, Inc., and SDTA (Intervenors), and Midco.

On January 10, 2019, Midco filed a supplement to Exhibit 5. With this supplement Midco provides the specific census block numbers which authority to serve is requested.

OVERVIEW

As part of the settlement agreement filed on January 4, 2019 between the Intervenors and Midco, in section 5 Midco has agreed to that with this filing they will not seek local exchange service authority or ETC designation in the rural overlap areas and no longer request a waiver of ARSD 20:10:32:15. The census block numbers included in this settlement agreement are listed in section 3 of the agreement.

Further, as stated in the settlement agreement, based on the maps provided, there do appear to be some minor overlap areas that are part of the CAF II funded census blocks but fall into rural territory.

Staff has reviewed the maps both in pdf format and kmz file format via Google Earth. It does appear to Staff that there does in fact seem to be some overlap. Staff is in agreement with the settlement stipulation filed by the Intervenor and Midco that the overlap areas appear to be roads and public road rights-of-way that are unlikely to have any serviceable locations in the future. But, with the inclusion of section 5 of the settlement agreement the, Midco has conceded that they will not provide service to any potential customer in the rural portions of the census blocks no matter how unlikely a serviceable location may be in the overlap areas.

As noted in response to Staff's data request 3-1, see attached Exhibit 2, Midco does not feel that a waiver of ARSD 20:10:32:15 is required at all in this docket.

In response to staff data request 2-1, Midco states that they will deploy a fixed wireless technology to get broadband at the speeds required to meet the CAF II speed requirements.

RECOMMENDATION

Staff recommends the Commission approve Midco's request for an Amended Certificate of Authority to allow them to serve in the CAF II Census Blocks. Staff also recommends that the Commission approve Midcontinent Communications' request for a Certification an eligible telecommunications carrier in the CAF II Census Blocks.

Staff also would note that Midco's requests withdrawal of the waiver request for ARSD 20:10:32:15 as noted in section 5 of the settlement stipulation. Staff doesn't believe this request needs to be approved but just would like to note that a waiver is no longer requested in this docket.