

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 CENSUS BLOCKS LISTED BELOW CONTAINED WITHIN RURAL AREAS IN MOODY, DAVISON, MINNEHAHA, HANSON, BEADLE, KINGSBURY, AND CODINGTON COUNTIES	TC 18-_____  MIDCONTINENT'S PETITION FOR WAIVER OF ARSD 20:10:32:15 AND GRANTING OF EXPANDED CERTIFICATE OF AUTHORITY WITH ETC STATUS IN DEFINED CENSUS BLOCKS
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Midcontinent Communications ("Midco") by and through its undersigned counsel, in conjunction with its Amended Application for Amended Certificate of Authority filed simultaneously herewith, hereby seeks a waiver of ARSD 20:10:32:15. For its Petition for Waiver, Midco states:

1. Midco has been chosen as a recipient of Connect America Fund II ("CAF II") funding awarded by the Federal Communications Commission ("FCC"), as stated in the Public Notice issued on August 28, 2018 in DA 18-887 (attached hereto as **Exhibit 1**). The FCC's rules require Midco to obtain eligible telecommunications carrier ("ETC") status in all of the census blocks in which Midco was the successful bidder for CAF II funding (collectively, the "CAF Census Blocks") within one hundred eighty (180) days of the release of the Public Notice:

The Commission decided that an applicant need not be an ETC as of the initial shortform application filing deadline for Auction 903, but that it must obtain a high-cost ETC designation for the areas covered by its winning bids within 180 days after being announced as a winning bidder. . . In addition to all the requirements for participating in the Phase II auction, each applicant should be familiar with the requirements for a high-cost ETC. For example, all high-cost ETCs are required to offer Lifeline voice and broadband service to qualifying low-income consumers pursuant to the Lifeline program rules. Moreover, when the requirement has been fully implemented, each Phase II support recipient will be required to bid on category one telecommunications and Internet access services in response to a posted FCC Form 470 seeking broadband service that

meets the connectivity targets for the schools and libraries universal service support program (E-rate) for eligible schools and libraries located within any area in a census block where the ETC is receiving Phase II support.

*Connect America Fund Phase II Auction Scheduled for July 24, 2018 Notice and Filing*

*Requirements and Other Procedures for Auction 903*, AU Doc. No. 17-182; WC Doc. No. 10-90

(“Final Notice”) (Feb. 1, 2018) at ¶121, attached and incorporated herein as **Exhibit 2**.

2. The FCC has found that each of the areas where Midco was awarded CAF II funding is not served by an incumbent price cap carrier or an unsubsidized competitor with voice and broadband service at speeds of 10/1 Mbps or higher. *See, e.g.*, Ex. 2 ¶ 1 & n.1, ¶ 3.

3. The FCC has further found that Midco is financially and technically able to offer the services it seeks to provide in the CAF Census Blocks by granting its application to participate in the CAF Phase II Auction. *See* FCC Public Notice, *WCB Reminds Connect America Fund Phase II Auction Applicants of the Process for Obtaining a Federal Designation as an Eligibly Telecommunications Carrier*, WC Doc. Nos. 09-197, 10-90 (July 10, 2018) (“ETC Public Notice”) at p. 6, attached and incorporated herein as **Exhibit 3**:

In the Phase II auction context . . . bidders demonstrate their ability to efficiently offer service through the competitive bidding process while in their short-form and long-form applications, bidders demonstrate their ability to meet their public interest obligations. Through such processes, the Commission conducts the cost-benefit analysis for ETC designation. Accordingly, carriers need not provide additional specific evidence of service to the public interest in their petitions for ETC designation.

The FCC has also waived Midco’s requirements to submit a five-year improvement plan and a certification committing to implement consumer protection and customer service standards. *Id.* at p. 4.



4. ARSD 20:10:32:15 requires Midco, by seeking authority to provide local exchange service in the service areas of a rural telephone company, to satisfy the service requirements imposed on ETCs pursuant to 47 U.S.C. § 214(e)(1) and applicable federal regulations. Importantly, however, ARSD 20:10:32:18 permits a petition “for a waiver from having to satisfy the eligible telecommunications services requirements.”

5. Midco will only be providing ETC services within the awarded CAF Census Blocks. An overview map of all CAF Census Blocks is attached and incorporated herein as **Exhibit 4**. A spreadsheet of all CAF Census Blocks is attached and incorporated herein as **Exhibit 5**.

6. Midco 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) within the CAF Census Blocks. *See also* Exhibit 2 at p. 6. (finding that Midco is so qualified).

7. Midco, therefore, seeks a waiver of the eligible telecommunications carrier service requirements pursuant to ARSD 20:10:32:18 for any rural service exchange area outside the CAF Census Blocks, in the following study areas:

A. To the extent that the geographic area outside the CAF Census Blocks is less than the entire Venture Communications Cooperative (“Venture”) study area and service of less than the entire study areas requires a waiver, Midco requests such a waiver. *See* map of the Venture study area attached and incorporated herein as **Exhibit 6**.

B. To the extent that the geographic area outside the CAF Census Blocks is less than the entire Santel Communications Cooperative (“Santel”) study area and service of less than the entire study areas requires a waiver, Midco requests such a waiver. *See* map of the Santel study area attached and incorporated herein as **Exhibit 7**.

C. To the extent that the geographic area outside the CAF Census Blocks is less than the entire Interstate Telecommunications Cooperative, Inc. ("Interstate") study area and service of less than the entire study areas requires a waiver, Midco requests such a waiver. *See* map of the Interstate study area attached and incorporated herein as **Exhibit 8**.

D. To the extent that the geographic area outside the CAF Census Blocks is less than the entire Frontier Communications Cooperative ("Frontier") study area and service of less than the entire study areas requires a waiver, Midco requests such a waiver. *See* map of the Frontier study area attached and incorporated herein as **Exhibit 9**.

E. Finally, Midco has submitted a map showing that the remaining census blocks are in Century Link study areas. *See* map of the Century Link study area attached and incorporated herein as **Exhibit 10**.

6. Because Midco can meet the service requirements within the areas where it will be providing service, namely the CAF Census Blocks, granting a waiver to Midco will not adversely impact universal service or quality of service. Therefore, granting a waiver is in the public interest.

WHEREFORE, Midco respectfully requests that the Commission grant its Application for Amended COA, a Certification as to ETC status in the CAF Census Blocks, and a Waiver of ARSD 20:10:32:18 as to the geographic areas outside of the CAF Census Blocks that are within the Venture, Santel, Interstate, and Frontier study areas listed herein.

Dated this 22<sup>nd</sup> day of October,  
2018.

MIDCONTINENT  
COMMUNICATIONS

By: 

Patrick J. Mastel  
General Counsel  
Midcontinent Communications

## CERTIFICATE OF SERVICE

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

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Dated this 29<sup>th</sup> day of October,  
2018.

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