

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

**IN THE MATTER OF PETITION FOR ARBITRATION)
OF AN INTERCONNECTION AGREEMENT BETWEEN) TC21-124
MIDCONTINENT COMMUNICATIONS AND)
JAMES VALLEY COOPERATIVE TELEPHONE)
COMPANY)**

**JAMES VALLEY COOPERATIVE TELEPHONE COMPANY’S DISPUTED
PROVISIONS IN INTERCONNECTION AGREEMENT
WITH MIDCONTINENT COMMUNICATIONS**

James Valley Cooperative Telephone Company files its dispute with the following provisions in the Interconnection Agreement proposed by Midcontinent Communications.

Table of Provisions James Valley Disputes

Location	Midco Proposed	James Valley Proposed
Page 4 of 49	WHEREAS, Midcontinent is a telecommunications company authorized to provide Telecommunications Services in the State of South Dakota;	WHEREAS, Midcontinent is a <u>local exchange</u> telecommunications company authorized to provide Telecommunications Services in the State of South Dakota...
Page 7 of 49 ¶ 6	If any sale or transfer of Midcontinent or facilities used to provide services under this Agreement is to an entity that is not authorized to provide Telecommunications Service	If any sale or transfer of Midcontinent or facilities used to provide services under this Agreement is to an entity that is not authorized to provide <u>local exchange</u> Telecommunications Service
Page 10 of 49 ¶ 9.6.1	The relevant books, records and other documents include, but are not limited to, usage data, source data, traffic reports and associated data (including such traffic reports and associated data from Retail Providers) and other information and documents in accordance with this Agreement.	The relevant books, records and other documents include, but are not limited to, usage data, source data, traffic reports and associated data (including such traffic reports and associated data from Retail Providers) and other information and documents in accordance with this Agreement.
Page 10 of 49 ¶ 10	Each Party shall comply with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.	<u>This Agreement is subject to and contingent upon it and</u> Each Party shall complying with all federal, state, and local statutes, regulations, rules, ordinances, judicial decisions, and administrative rulings applicable to its performance under this Agreement.

<p>Page 13 of 49 ¶ 16</p>	<p>Notwithstanding the foregoing, the Parties have expressly agreed that the acts of any Retail Provider contracting, directly or indirectly, with Midcontinent for use of the services provided under this Agreement shall be deemed to be within Midcontinent’s control and shall not be a Force Majeure Event.</p>	<p>Notwithstanding the foregoing, the Parties have expressly agreed that the acts of any Retail Provider contracting, directly or indirectly, with Midcontinent for use of the services provided under this Agreement shall be deemed to be within Midcontinent’s control and shall not be a Force Majeure Event.</p>
<p>Page 15 of 49 ¶ 22.2.2</p>	<p>In addition to the indemnities in Section 22.2.1 above, Midcontinent shall indemnify and hold harmless ILEC from and against claims for loss, cost, liability, damage, and expense (including reasonable attorney’s fees) (“Claims”) caused to ILEC by any third party using Midcontinent to deliver traffic to or receive traffic from ILEC’s facilities, including claims resulting from rate arbitrage, phantom traffic, toll fraud or failure to provide valid, accurate and complete CPN on all traffic subject to this Agreement so that ILEC is compensated in full for such exchanged traffic in accordance with the terms of this Agreement. ILEC will notify Midcontinent of information it has received or discovered which appear to trigger this indemnity obligation and provide back-up to support its concerns. Midcontinent will have thirty (30) days to respond to such concerns, and, to the extent such claims are shown to be valid, shall reimburse ILEC promptly for all loss incurred by ILEC. In addition, Midcontinent shall take immediate steps to prevent future problems from the offending third party(s) to the extent they can be identified.</p>	<p>In addition to the indemnities in Section 22.2.1 above, Midcontinent shall indemnify and hold harmless ILEC from and against claims for loss, cost, liability, damage, and expense (including reasonable attorney’s fees) (“Claims”) caused to ILEC by any third party using Midcontinent to deliver traffic to or receive traffic from ILEC’s facilities, including claims resulting from rate arbitrage, phantom traffic, toll fraud or failure to provide valid, accurate and complete CPN on all traffic subject to this Agreement so that ILEC is compensated in full for such exchanged traffic in accordance with the terms of this Agreement. ILEC will notify Midcontinent of information it has received or discovered which appear to trigger this indemnity obligation and provide back-up to support its concerns. Midcontinent will have thirty (30) days to respond to such concerns, and, to the extent such claims are shown to be valid, shall reimburse ILEC promptly for all loss incurred by ILEC. In addition, Midcontinent shall take immediate steps to prevent future problems from the offending third party(s) to the extent they can be identified.</p>
<p>Page 18 of 49 ¶ 29</p>		<p>29.2. Notwithstanding any other provision of this Agreement, neither Party waives any rights it may have under the Federal Act or rules of the FCC, under state statute, or pursuant to rules or Orders of the South Dakota Public Utilities Commission, including but not limited to ILEC’s right to petition, pursuant to 47 U.S.C. § 251(f)(2), for a suspension or modification from any of the local exchange carrier requirements contained in 47U.S.C. §§ 251(b) and 251(c), at any time that this Agreement is in effect.</p>
<p>Page 22 of 49 ¶ 2.15</p>	<p>The residence or business subscriber that is the ultimate user of Telecommunications Services provided directly to such subscriber by either of the Parties or by an Interconnection Customer. For purposes of this Agreement, an End User Customer of an</p>	<p>The residence or business subscriber that is the ultimate user of Telecommunications Services provided directly to such subscriber by either of the Parties or by an Interconnection Customer. For purposes of this Agreement, an End User Customer of an Interconnection Customer shall be deemed to be an End User Customer of the</p>

	Interconnection Customer shall be deemed to be an End User Customer of the Party providing interconnection services to that Interconnection Customer.	Party providing interconnection services to that Interconnection Customer.
Page 23 of 49 ¶ 2.21	INTERCONNECTION CUSTOMER. A customer of either Party that purchases interconnection services from that Party.	INTERCONNECTION CUSTOMER. A customer of either Party that purchases interconnection services from that Party.
Page 25 of 49 ¶ 2.36	The physical location(s) mutually agreed upon and designated by the Parties for the purpose of exchanging Local/EAS Traffic. Each Party shall be responsible for all costs on its respective side of the POI.	The physical location(s) mutually agreed upon and designated by the Parties for the purpose of exchanging Local/EAS Traffic. Each Party shall be responsible for all costs on its respective side of the POI.
Page 33 of 49 ¶ 3.1	Each Party shall abide by FCC adopted NANC provisioning and implementation processes. If a Party is providing interconnection services, it will require its Interconnection Customers to comply with all applicable numbering and number portability requirements.	Each Party shall abide by FCC adopted NANC provisioning and implementation processes. If a Party is providing interconnection services, it will require its Interconnection Customers to comply with all applicable numbering and number portability requirements.
Page 35 of 49 ¶ 2.3	Midcontinent provides Telecommunications Services under this Agreement to Interconnection Customers, which provide services to End Users.	Midcontinent provides Telecommunications Services under this Agreement to Interconnection Customers, which provide services to End Users.
Page 40 of 49 ¶ 5.2	The Parties shall not assign, and shall not permit any Interconnection Customers to assign, telephone numbers from an NPA/NXX to an End User Customer physically located outside the Rate Center Area with which the NPA/NXX is associated.	The Parties shall not assign, and shall not permit any Interconnection Customers to assign, telephone numbers from an NPA/NXX to an End User Customer physically located outside the Rate Center Area with which the NPA/NXX is associated.
Page 41 of 49 ¶ 5.3	Users physically located in the ILEC Rate Center Area associated with the number blocks either directly or by means of a dedicated facility from the subscriber's physical location to a location within the ILEC's Rate Center (such as FX service), and Midcontinent shall require any Interconnection Customer to assign numbers in accordance with these requirements.	Users physically located in the ILEC Rate Center Area associated with the number blocks either directly or by means of a dedicated facility from the subscriber's physical location to a location within the ILEC's Rate Center (such as FX service), and Midcontinent shall require any Interconnection Customer to assign numbers in accordance with these requirements.
Page 49 of 49 Footnote	*Midcontinent to provide NPA-NXX codes assigned to Interconnection Customers at least thirty (30) days prior to requested date for activation of those codes by ILEC to the address in Section 26 of the Interconnection Agreement.	*Midcontinent to provide NPA-NXX codes assigned to Interconnection Customers at least thirty (30) days prior to requested date for activation of those codes by ILEC to the address in Section 26 of the Interconnection Agreement.

The parties are continuing to discuss the above provisions and are exchanging a draft document with redlines that indicate the parties' positions on the various provisions.

Dated: April 11, 2022.

Bantz, Gosch & Cremer, L.L.C

/s/ Josh Wurgler

Josh Wurgler, Esq.
305 Sixth Avenue SE; P.O. Box 970
Aberdeen, SD 57402
Tel: (605) 225-2232
jwurgler@bantzlaw.com