

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

| | |
|---|------------------------------|
| IN THE MATTER OF THE APPROVAL OF) | STAFF’S CONSENT TO |
| THE PETITION FOR ARBITRATION OF) | INTERVENTION OF SDTA |
| AN INTERCONNECTION AGREEMENT) | AND STAFF’S MOTION TO |
| BETWEEN MIDCONTINENT) | BIFURCATE ISSUE AND |
| COMMUNICATIONS AND) | SCHEDULING HEARING |
| JAMES VALLEY COOPERATIVE) | |
| TELEPHONE COMPANY) | TC21-124 |

On December 27, 2021, South Dakota Telecommunications Association (SDTA) filed a Petition for Limited Intervention. In its Petition, SDTA represented that the Parties to this proceeding do not object to SDTA’s limited intervention. Staff formally concurs with that representation. Staff also agrees with SDTA’s assertion that the Parties have identified a threshold legal issue, which is the issue on which SDTA seeks to be heard. Staff now moves the Commission bifurcate that issue.

I. Motion to Bifurcate

Regarding the limited issue for which SDTA seeks intervention, regardless of whether intervention is granted, Staff requests the issue be bifurcated and a briefing scheduling be established so the issue might be heard at a later Commission meeting.

1. Precise issue to be heard

The specific issue Staff requests be bifurcated is: If Midcontinent Communications (Midco) obtains interconnection in rural territory for the purpose of interconnecting with Midco VoIP to ultimately serve end users, does Midco and/or Midco VoIP need to obtain a certificate of authority from this Commission?

a. Background

The facts leading to this issue, as Staff understands those facts, are as follow, subsection to correction if needed:

- i. Midco is seeking to provide wholesale service in the rural territory of James Valley Cooperative Telephone Company (James Valley);
- ii. James Valley will not interconnect directly with a VoIP retail provider;
- iii. As stated in its Petition for Arbitration, if Midco is entitled to and obtains a wholesale interconnection agreement, Midco would then interconnect with VoIP providers that sell to end users;

It is Staff's understanding that all Parties would consent to toll the statutory time for ruling on a petition for arbitration while this particular issue is pending. Staff welcomes clarity from fellow Parties as to the exact issue(s) to be bifurcated.

WHEREFOR, Staff requests the Commission issue an order bifurcating this issue, granting the intervention of SDTA, and establishing a briefing schedule on this issue.

Dated this 29th day of December 2021.



Kristen N. Edwards
Staff Attorney
South Dakota Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501
Phone (605)773-3201
Kristen.edwards@state.sd.us