

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

**IN THE MATTER OF THE APPROVAL OF )  
THE PETITION FOR ARBITRATION OF AN )  
INTERCONNECTION AGREEMENT ) STAFF’S RESPONSE TO  
BETWEEN MIDCONTINENT ) MOTION TO COMPEL  
COMMUNICATIONS AND )  
JAMES VALLEY COOPERATIVE ) TC21-124  
TELEPHONE COMPANY )**

Staff hereby submits and files this Response to Motion to Compel. The South Dakota Public Utilities Commission (Commission) received a Motion to Compel on May 5, 2022, filed by Midcontinent Communications (Midco).

In its Motion, Midco requests the Commission compel James Valley Cooperative Telephone Company (James Valley) to provide a “full response to Interrogatory 4 and Request 4 on an expedited basis.” The information which Midco seeks is disclosure of agreements with other carriers that includes the language James Valley proposes for Section 10 of the proposed interconnection agreement.

**A. Legal Authority and Argument**

The legal standard for discovery was well laid out in Complainant’s brief attached to the Motion. SDCL 15-6-26(b) allows for the discovery of any information “relevant to the subject matter involved in the pending action.” *Kaarup v. St. Paul Fire and Marine Ins. Co.*, 436 NW2d 17, 20 (Court holding that the proper standard for ruling on a discovery motion is whether the information sought is relevant to the subject matter involved in the pending action). The Court has stated that statute implies a broad construction of relevancy. *Id.*

While the issue of prior language could be relevant to ensuring that the proposed agreement is consistent with others and, therefore, not discriminatory, Staff nonetheless does not support the Motion to Compel. This is because every interconnection agreement that James Valley, or any other telecommunications company in South Dakota, enters into must be approved by the Commission and is, therefore, public information. Thus, there should be no interconnection agreement in existence to which Midco does not already have access. Those dockets are listed below. A quick review of those dockets indicates that none of James Valley's interconnection agreements are for the same type of services sought in this docket. Therefore, discovery of those interconnection agreements is not likely to lead to relevant information. Even if those interconnection agreements were similar, they are all already available on the Commission's website by going to the dockets listed below.

Staff notes the following dockets relate to James Valley's prior and existing interconnection agreements:

- TC98-030 – In the Matter of the Filing by South Dakota Independent Telephone Coalition for Approval of Reciprocal Transport and Termination Agreement Between Commnet Cellular, Inc. and James Valley Cooperative Telephone Company
- TC00-033 – In the Matter of the Filing by South Dakota Independent Telephone Coalition for Approval of Reciprocal Transport and Termination Agreement between G.C.C. License L.L.C. and James Valley Cooperative Telephone Company
- TC04-068 – In the Matter of the Filing for Approval of a Reciprocal Interconnection, Transport and Termination Agreement between WWC License LLC and James Valley Cooperative Telephone Company
- TC07-110 – In the Matter of the Filing for Approval of a Reciprocal Interconnection, Transportation and Termination Agreement between James Valley Cooperative Telephone Company and James Valley Wireless, LLC.
- TC12-178 – In the Matter of the Approval of an Intercarrier Compensation Bill and Keep Amendment to an Interconnection Agreement between Cellco Partnership dba Verizon Wireless; Cellular Inc. Network Corporation dba Verizon Wireless; Cellular, Inc. Financial Corporation dba Verizon Wireless; Midwest Wireless Communications, LLC dba Verizon Wireless; Rural Cellular Corporation dba Verizon Wireless; Verizon Wireless (VAW) LLC dba Verizon Wireless; WWC Holding Co., Inc. dba Verizon Wireless and James Valley Cooperative Telephone Company

- TC12-156 – In the Matter of the Approval of an Intercarrier Compensation Bill and Keep Amendment to an Interconnection Agreement between New Cingular Wireless PCS, LLC, and its Commercial Mobile Radio Service Operating Affiliates, dba AT&T Mobility and James Valley Cooperative Telephone Company dba James Valley Telecommunications

### CONCLUSION

Because the discovery request seeks information to which all parties have access and of which Staff has now provided a list, Staff recommends the Motion to Compel be denied. If there are agreements in existence which did not require Commission approval, those would be dissimilar and, therefore, irrelevant to this proceeding. The same would be true for interconnection agreements to which an affiliate of James Valley is a party, as those would not be agreements involving James Valley as a rural incumbent local exchange carrier and, thus not relevant to show discrimination here.

Dated this 10th day of May 2022.

  
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