

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER DENYING REQUEST
BY MIDCONTINENT COMMUNICATIONS,)	TO STAY PROCEEDINGS
KNOLOGY OF THE PLAINS, INC., AND)	
KNOLOGY OF THE BLACK HILLS, LLC,)	TC10-096
AGAINST MCI COMMUNICATIONS SERVICES,)	
D/B/A VERIZON BUSINESS SERVICES FOR)	
UNPAID ACCESS CHARGES)	

On October 27, 2010, the Public Utilities Commission (Commission) received a complaint from Midcontinent Communications, Knology of the Plains, Inc., and Knology of the Black Hills, LLC (Complainants) against MCI Communications Services, Inc. d/b/a Verizon Business Services (Verizon) for unpaid access charges. The Complainants allege that Verizon has failed to pay invoices pursuant to state tariffs for the provision of intrastate switched access services. The Complainants believe Verizon withheld payment based on Verizon's argument the unpaid amounts are linked to IP-originated and IP-terminated traffic and it does not believe these items are subject to switched access tariff charges. The Complainants disagree, arguing traffic is undistinguishable and subject to switched access charges. On November 18, 2010, the Commission received an Answer to Complaint, Request for Stay to Permit Settlement Negotiations, Or, in the Alternative, Request for Hearing on Threshold Factual Issues Related to Jurisdiction from Verizon. On December 8, 2010, the Complainants filed their Opposition to Verizon's Request for Stay or Alternative, Request for Hearing on Threshold Factual Issues. On December 13, 2010, Verizon filed a reply to Complainants' Brief in Support of Opposition to Verizon's Request for Stay or Alternative Request for Hearing on Threshold Factual Issues. On December 21, 2010, Complainants filed a Request for Interim Relief. On December 27, 2010, Complainants filed a Request for Procedural Schedule. At its regularly scheduled Commission meeting held on January 4, 2011, the Commission denied the Complainants' request for interim relief, and the Complainants' alternative request to cease providing intrastate switched access services to Verizon. The Commission ordered that the Commission Counsel work with the parties to determine a procedural schedule with two rounds of discovery, the first round having 30 days, the second round having 21 days; to file any dispositive motions prior to the hearing; and to have all pre-filed testimony filed prior to the hearing. On January 14, 2011, the Commission received a Petition to Intervene by the following parties: South Dakota Network, LLC, (SDN), South Dakota Telecommunications Association (SDTA), and Local Exchange Carriers Association (LECA). On January 27, 2011, Verizon objected to the petition. The Commission granted Intervention to all parties. On February 3, 2011, Midcontinent filed a Motion to Amend Complaint. On February 9, 2011, Verizon filed an Opposition to Midcontinent's Motion to Amend Complaint. On February 18, 2011, Verizon Business Services requested the Commission stay the current proceeding due to the Notice of Proposed Rulemaking recently released by the FCC. At its February 22, 2011, meeting, the Commission granted Midcontinent's Motion to Amend.

At its regularly scheduled meeting of March 8, 2011, the Commission heard extensive arguments by all parties. The Commission voted unanimously to deny Verizon's request to stay the current proceedings. The Commission finds Verizon failed to provide sufficient justification for granting a stay.

It is therefore

ORDERED, that Verizon's request to stay the proceedings is denied.

Dated at Pierre, South Dakota, this 14th day of March, 2011.

<p style="text-align: center;">CERTIFICATE OF SERVICE</p> <p>The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.</p> <p>By: <u>Tina Douglas</u></p> <p>Date: <u>3/14/2011</u></p> <p style="text-align: center;">(OFFICIAL SEAL)</p>
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BY ORDER OF THE COMMISSION:

Steve Kolbeck
STEVE KOLBECK, Chairman

Gary Hanson

GARY HANSON, Commissioner

Ch. Nelson

CHRIS NELSON, Commissioner