

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER GRANTING MOTION
BY MIDCONTINENT COMMUNICATIONS,)	TO COMPEL IN PART
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 Commission meeting held on March 8, 2011, the Commission denied Verizon's request to stay the current proceeding. Also on March 8, 2011, Verizon filed a Motion to Compel Midcontinent to answer discovery. Midcontinent answered the

Motion on March 14, 2011. On March 18, 2011, Verizon filed its answer to Midcontinent's amended complaint. On March 28, 2011, Verizon filed an Amended Motion to Compel Midcontinent to answer discovery.

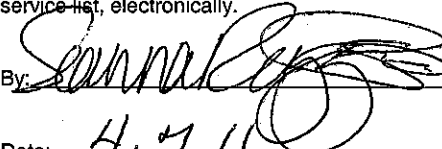
At its scheduled ad hoc meeting of March 30, 2011, the Commission heard extensive arguments by all parties on the Amended Motion to Compel. The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26, 49-13, and 49-31.

In Verizon's Amended Motion to Compel, Verizon requested that Midcontinent be compelled to properly respond to Int. Nos. 4 (subparts c and e) and 15 of Verizon's First Set of Interrogatories, and Document Request Nos. 1 (subparts a and e) and 2 of Verizon's First Set of Document Requests. After listening to the arguments of the parties, the Commission made the following decisions. For Int. No. 4 (subpart c), the Commission voted to compel Midcontinent to identify each carrier that Midcontinent customers subscribed to as their interexchange carrier and the number of Midcontinent customers that were subscribed to each of these carriers on December 31, 2010 (Commissioner Hanson dissenting). For Int. No. 4 (subpart e), the Commission unanimously voted to deny the motion to compel. For Document Request No. 2, the Commission voted unanimously to grant the motion to compel only as it applies to the single carrier previously identified by Midcontinent and only to communications relating to VoIP and IP enabled traffic dating back to 2006 if the records exist. For Int. No. 15, the Commission voted to compel (Commissioner Hanson dissenting). For Int. No. 1 (subpart a), the Commission voted to deny the motion to compel (Commissioner Kolbeck dissenting). For Int. No. 1 (subpart e), the Commission voted to deny the motion to compel (Commissioner Hanson dissenting).

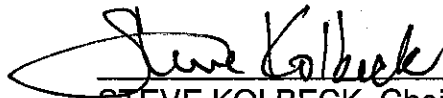
It is therefore

ORDERED, that Verizon's Motion to Compel is granted in part and denied in part.


Dated at Pierre, South Dakota, this 7th day of April, 2011.

CERTIFICATE OF SERVICE
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.
By: 
Date: <u>4.7.11</u>
(OFFICIAL SEAL)


BY ORDER OF THE COMMISSION:



STEVE KOLBECK, Chairman
(dissenting in part)



GARY HANSON, Commissioner
(dissenting in part)



CHRIS NELSON, Commissioner