

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION



Midcontinent Communications,
a South Dakota Partnership,

Complainant,

vs.

North Dakota Telephone Company,

Respondent.

Case No. PU-05-451

**BRIEF IN SUPPORT OF
A REQUEST FOR
RESCHEDULING OF HEARING
AND PREHEARING SCHEDULE**

North Dakota Telephone Company (NDTC) has moved the Commission, through its hearing officer, to proceed with one of the following two alternatives:

1. Continue with the scheduled hearing on October 13, 2005, and adopt a prehearing order which requires the following:

- a. Pre-filed testimony and exhibits of Midcontinent Communications (Midco) shall be filed on or before September 23, 2005.
- b. Pre-filed testimony and exhibits of NDTC shall be filed on or before October 7, 2005.

OR

2. Reschedule the hearing in this matter from October 13, 2005, to October 27, 2005, and adopt a prehearing order which requires the following:

- a. Pre-filed testimony and exhibits of Midco shall be filed on or before September 30, 2005.

- b. Pre-filed testimony and exhibits of NDTC shall be filed on or before October 14, 2005.

LAW AND ARGUMENT

NDTC respectfully submits that this rescheduling request is in the public interest and should be granted. The instant proceeding involves a request for interconnection that triggers the requirements of section 251(f)(1) of the Communications Act of 1934, as amended. On information and belief, NDTC notes that this is one of the first occasions that the Commission has been requested to consider the removal of the exemption provided to a rural telephone company (such as NDTC). As the party bearing the burden of proof in this matter, Midco should, as a matter of fundamental fairness and procedural due process, be required to make its submissions sufficiently in advance in order to provide NDTC the opportunity to respond to the statutory factors that Midco will, presumably, be suggesting it meets. The use of traditional administrative hearing procedures will help ensure the development of a complete record upon which the Commission can reach its decision. These results, NDTC notes, are not achievable since no prehearing filing schedule has been addressed or established by the Commission.

Although it recognizes that its second alternative will reduce the amount of time within which the Commission must resolve this matter, NDTC has offered the second alternative in order to provide the Commission with a choice as to how best it would like to proceed toward resolution of this matter. Thus, NDTC would be willing to proceed along

the second alternative should the Commission determine that this alternative schedule would best achieve its resolution of the issues raised in this proceeding.

Accordingly, NDTC respectfully submits that the public interest would be advanced by a grant of this request for a procedural schedule and will defer to the Commission's judgment as to which of the two alternatives presented herein should be adopted.

Dated at Minot, North Dakota, this 13th day of September, 2005.

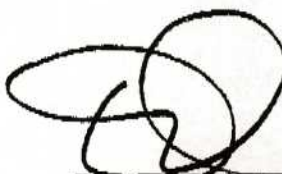

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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Request for Rescheduling of Hearing and Prehearing Schedule and Brief in Support of a Request for Rescheduling of Hearing and Prehearing Schedule was served by regular mail on the 13th day of September, 2005, on the following:

Patrick W. Durick
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Bismarck, ND 58502-0400



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