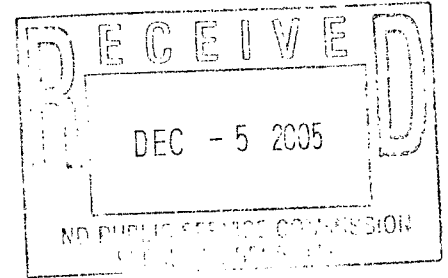


STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION



Midcontinent Communications,
a South Dakota Partnership,

Complainant,

vs.

North Dakota Telephone Company,

Respondent.

Case No. PU-05-451

**EXPEDITED REQUEST FOR
FURTHER PROCEDURAL
CONFERENCE AND
ESTABLISHMENT OF
PROCEDURAL SCHEDULE**

North Dakota Telephone Company ("NDTC") hereby respectfully submits this "Expedited Request, for Further Procedural Conference and Establishment of Procedural Schedule" (the "Request") in the above-captioned proceeding. As explained below, NDTC respectfully submits that intervening events since the November 15, 2005, Second Prehearing Conference in this proceeding (the "November 15th Prehearing") necessitate the Hearing Officer's intervention to establish the filing dates for prefiled direct testimony and exhibits of Midcontinent Communication ("Midco"), prefiled responsive testimony and exhibits of NDTC, and prefiled rebuttal testimony and exhibits of Midco. The intervening events since the November 15th Prehearing also require the imposition of a discovery cut-off date and, potentially, a new hearing date based on Midco's preparedness, or the lack thereof, for a hearing.

I. BACKGROUND

During the November 15th Prehearing Conference, the Hearing Officer and the parties agreed that a hearing in this matter would be scheduled for January 23, 2006. That date, in NDTC's view, was established to accommodate Midco's expressed desire to resolve this matter as quickly as possible and its assurances that this case was quite simple. However, NDTC's agreement to the January 26, 2006, hearing date was with the understanding that such date would also require the development of a reasonable procedural schedule to accommodate both parties' rights to present and reply to prefiled testimony of the other. To that end, the Hearing Officer requested the parties to meet in order to create a mutually agreed-to procedural schedule.

As the Hearing Office is also aware, adherence to a schedule that incorporated the January 23, 2006, hearing date was complicated by the fact that Midco had issued discovery, responses to which would not be due until November 28, 2005. Accordingly, the Hearing Officer encouraged NDTC, to the extent it could, to respond to such discovery prior to November 28, 2005. In response to the Hearing Officer's suggestion, NDTC undertook such efforts and facsimiled its discovery responses to Midco on Wednesday, November 23, 2005. (See Exhibit 1.)

With respect to scheduling issues, counsel for NDTC initiated discussion with Midco counsel in an effort to reach agreed-to time frames for the various pre-hearing submissions. As part of the communications between the parties, Midco issued additional discovery on November 29, 2005. (See Exhibit 2.) In the discussions, Midco also has made clear that, regardless of its initial testimony date, Midco wishes to

somehow claim a right to introduce new direct testimony within its rebuttal testimony based on the NDTC responses to Midco's November 29, 2005, discovery (responses to which would not be due until December 29, 2005). As explained in the exchange of emails between NDTC and Midco, NDTC indicated to Midco that such gamesmanship is improper. (See Exhibit 3.)

II. COMMISSION ACTION IS NOW REQUIRED

NDTC's actions speak for themselves. NDTC has attempted to comply with all reasonable requests made of it by Midco and the Hearing Officer. In light of the events that have occurred since the November 15th Prehearing, however, Midco's actions have raised doubts as to whether it is similarly committed. Accordingly, NDTC respectfully seeks the Hearing Officer's intervention to resolve the issues surrounding the procedural schedule and respectfully submits that such intervention be made on an expedited basis.

Whether intentional or not, Midco's actions since the November 15th Prehearing provides Midco with the opportunity (albeit improper opportunity) to introduce new evidence at the hearing to which NDTC could not have had a chance to respond. Equally problematic is the possibility that Midco's actions of issuing November 29, 2005, is but the first of subsequent discovery requests which would only further complicate the fair and rational introduction of prefiled testimony and exhibits in this proceeding. Alternatively, Midco's actions give rise to question the appearance provided by it during the November 15th Prehearing that Midco was ready for an expedited hearing date. Midco has now had over three months to propound discovery to NDTC and the need for

further discovery was never mentioned by Midco during the November 15th Prehearing (even though discovery was one of the very basis upon which the need for the November 15th Prehearing was called).

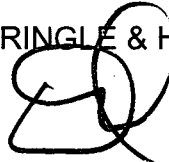
While NDTC continues its commitment to respond reasonably to any requests in this proceeding and to enter into discussions on a rational procedural schedule, those commitments are based on the concept of fundamental fairness and NDTC's expectation that it not be subjected to surprise and unfair demands. In light of the events since November 15th Prehearing, NDTC is properly concerned that the avoidance of such unfairness and surprise can only be accomplished through the intervention of the Hearing Officer in this matter.

Accordingly, NDTC requests an expedited further procedural conference and establishment of procedural schedule in this matter. At this conference, NDTC requests that the Hearing Officer establish the date for: (1) the filing of prefiled direct testimony and exhibits of Midco; (2) the filing of prefiled responsive testimony and exhibits of NDTC; (3) the filing of prefiled rebuttal testimony and exhibits of Midco; and (4) the cut-off of discovery. In addition, NDTC requests that the Commission and the Hearing Officer either affirm the January 23, 2006, hearing date or, based on the discussions at the conference, decide upon other possible hearing dates that accommodates the interests of the parties in this matter and fundamental fairness in the orderly and proper submission of prefiled testimony. After determining other possible dates, the Commission could set a new date at its December 14 hearing. To this end, counsel for

NDTC is available for such an expedited conference at any time after 2:00 p.m. CST,
Wednesday December 7, 2005, or Thursday or Friday, December 8 or 9, 2005.

Dated at Minot, North Dakota, this 2nd day of December, 2005.

PRINGLE & HERIGSTAD, P.C.



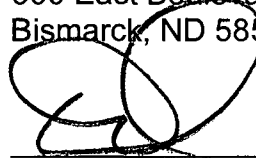
Don Negaard, ND Bar ID #03598
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000
Telephone: (701) 852-0381
Fax: (701) 857-1361
donn@srt.com
Attorney for Respondent

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Expedited Request for Further Procedural Conference and Establishment of Procedural Schedule was served by mail on the 2nd day of December, 2005, on the following:

Patrick W. Durick
PEARCE & DURICK
314 East Thayer Avenue
P.O. Box 400
Bismarck, ND 58502-0400

William W. Binek
Chief Counsel
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505-0480



Don Negaard, ND Bar ID #03598

EXHIBIT 1

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Midcontinent Communications,)	
a South Dakota Partnership,)	
)	
Complainant,)	Case No. PU-05-451
)	
vs.)	RESPONSE TO REQUEST
)	FOR DISCLOSURE OF
North Dakota Telephone Company,)	INFORMATION
)	
Respondent.)	

COMES NOW the Respondent, North Dakota Telephone Company (hereinafter NDTC), and for its response to the request for information interposed by Midcontinent Communications in its "Request for Disclosure of Information" dated October 24, 2005, which is treated as an interrogatory based on the agreement on the record dated November 15, 2005, states as follows:

OBJECTIONS

NDTC hereby objects to the request for DSL information for Devils Lake, North Dakota, on the grounds that:

1. It is not relevant or likely to lead to the discovery of relevant information.
2. It is proprietary and confidential information.
3. It is not sought for proper purposes but for the improper purpose of giving competitive information.
4. It is trade secret information and proprietary to NDTC.

Without waiving the foregoing, the information sought for the year 2004 is as follows:

Operating Revenues 2004

Devils Lake

Local Network Access	1,749,910.92
Network Access Services	2,999,122.51
Long Distance Network Services	4,241.38
Billing and Collection Revenue	105,121.24
Miscellaneous Revenue	182,182.76
Access Lines	5,637

Dated this 23rd day of November, 2005.

PRINGLE & HERIGSTAD, P.C.



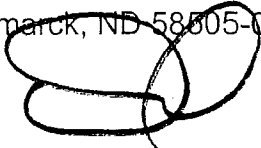
Don Negaard, ND Bar ID #03598
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000
Telephone: (701) 852-0381
Fax: (701) 857-1361
pringle@ndak.net
Attorney for Respondent

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Response to Request for Disclosure of Information was served by fax transmission and regular mail on the 23rd day of November, 2005, on the following:

Patrick W. Durick
PEARCE & DURICK
314 East Thayer Avenue
P.O. Box 400
Bismarck, ND 58502-0400

William W. Binek
Chief Counsel
Public Service Commission
600 East Boulevard Avenue
Bismarck, ND 58505-0480



Don Negaard, ND Bar ID #03598

EXHIBIT 2

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Midcontinent Communications/
North Dakota Telephone Company
Rural Exemption Investigation

Case No. PU-05-451

MIDCONTINENT'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION TO NORTH DAKOTA TELEPHONE COMPANY

TO: Mr. Donald Negaard, Pringle & Herigstad, P. O. Box 1000, Minot, ND
58702-100

Pursuant to and in accordance with Rules 33 and 34, North Dakota Rules of Civil procedure Midcontinent Communications requests answers under oath to the following interrogatories and responses to the following requests for production:

REQUESTS FOR PRODUCTION

Request for Production No. 1: Please provide a copy of all analyses performed by, or on behalf of, North Dakota Telephone Company calculating the costs the company would avoid by providing wholesale local exchange service via total service resale in the Devils Lake service area. Such costs would include product management, advertising, customer service and billing to retail customers as well as indirect general support and corporate operations expenses. To the extent such analyses exist in electronic spreadsheet form such as Microsoft Excel, please provide the requested information in the native software format with all formulas intact.

Request for Production No. 2: Based on Mr. Dirck's testimony during his deposition on October 11, 2005, he asserted that North Dakota Telephone Company had the ability to identify the revenue and expense attributable to its Devils Lake service

...ea. Devils Lake operating revenue for 2004 was provided in North Dakota Telephone Company's November 23, 2005 Response to Request for Disclosure of Information. Please provide the company's corresponding operating expenses by income statement expense account for the Devils Lake service area. To the extent such analyses exist in electronic spreadsheet form such as Microsoft Excel, please provide the requested information in the native software format with all formulas intact.

INTERROGATORIES

Interrogatory No. 1: Please identify all services that comprise the net income recorded in the following accounts on the North Dakota Telephone Company Statement of Income in its 2004 Annual Report filed with the Commission:

- a. Nonregulated Net Income
- b. Internet Net Income
- c. Net Income from LLC

Interrogatory No. 2: Please provide the following for all Custom Calling Services as defined in Section 5.13 of the Company's Exchange and Network Services Tariff. The account where revenue is recorded for these services in the North Dakota Telephone Company Statement of Income in its 2004 Annual Report filed with the Commission.

- d. The amount of revenue recorded for these services in the North Dakota Telephone Company Statement of Income in its 2004 Annual Report filed with the Commission.

Dated this **29** day of November, 2005.

PEARCE & DURICK


PATRICK W. DURICK *ND #03141*

Individually and as a Member of the Firm
314 E. Thayer Avenue
P. O. Box 400
Bismarck, ND 58502-0400
(701) 223-2890

Attorneys for Midcontinent Communications, Inc.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Midcontinent Communications/
North Dakota Telephone Company
Rural Exemption Investigation

Case No. PU-05-451

AFFIDAVIT OF MAILING

STATE OF NORTH DAKOTA)
) ss.
COUNTY OF BURLEIGH)

Tara Erickson hereby certifies that on November **29**, 2005, she served a copy of the foregoing:

**MIDCONTINENT'S INTERROGATORIES AND REQUESTS FOR
PRODUCTION TO NORTH DAKOTA TELEPHONE COMPANY**

by facsimile and by placing a true and correct copy thereof in an envelope and depositing the same, with postage prepaid, in the United States mail at Bismarck, North Dakota. addressed to the following:

Mr. Donald Negaard
Pringle & Herigstad
P. O. Box 1000
Minot, ND 58702-100
via facsimile 701-857-1361

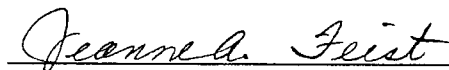
William W. Binek
Public Service Commission
Capitol
600 East Boulevard Avenue
Bismarck, North Dakota 58505
via facsimile 328-2410

Mr. Al Wahl
Administrative Law Judge
1707 North Ninth Street
Bismarck, ND 58501-1882
via facsimile 328-3254



Tara Erickson

Subscribed and sworn to before me this **29** day of November, 2005.



Notary Public

My commission expires:

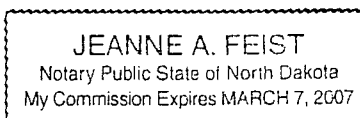


EXHIBIT 3

Don Negaard

From: "Patrick W. Durick" <pwd@pearce-durick.com>
To: "Don Negaard" <donn@srt.com>
Sent: Friday, December 02, 2005 6:22 AM
Subject: RE: Midcontinent - NDTC

Don:

I am out of the office today so won't be able to respond by Noon. I will agree to the in hands deadline for delivering pleadings. I will discuss you other proposals with Midcontinent. I don't see how you can object to furnishing information that is exclusively in your clients possession and which can be furnished in little time. If you want to make sure that no new information is presented, furnish the information if time for Midcontinent to consider it. We will be asking the hearing officer to shorten the time for response as a remedy. I don't hear any claim that it would be onerous to respond to the discovery in less than thirty days.

Pat

-----Original Message-----

From: Don Negaard [mailto:donn@srt.com]
Sent: Thu 12/1/2005 1:13 PM
To: Patrick W. Durick
Cc:
Subject: Fw: Midcontinent - NDTC

Pat,

I've reviewed your proposal. I think we may be at an impasse in light of your November 29th discovery requests in this matter.

While we can agree with your suggestion that Midco file its direct testimony on December 21, 2005, that agreement is subject to both of our understanding that the testimony and any attachments (exhibits, etc) would also be delivered to me (either by fax or electronically) by 5:00 p.m. CST on that date. In fact, we would agree that all dates in the procedural schedule would be subject to this similar "in-hand" of counsel requirement. Let me know if you agree.

In light of the November 29th discovery you served and your email, you suggest that Midco be allowed to reserve the right to introduce new information in your rebuttal testimony since any responses on your recent discovery would be due December 29, 2005. We think that result is improper. Since Midco has had more than sufficient time to promulgate discovery, it appears to us that Midco is only now determining its approach to a hearing. If you need more time then you should go back to the Hearing Officer and ask for a later hearing date such as one in February, 2006.

12/2/2005

In any event, we also are concerned that your recent discovery may be the first of similar requests which would only complicate the matter further. Please let me know whether you will agree to include a discovery cut-off, with no more new discovery, in any proposal schedule presented to the Hearing Officer.

We would appreciate knowing your position on the schedule and this email by noon tomorrow. Absent hearing from you, we will assume that we are, in fact, at an impasse and we will proceed to present this issue to the Hearing Officer.

Don

----- Original Message -----

From: Patrick W. Durick <pwd@pearce-durick.com>

To: Don Negaard <donn@srt.com>

Cc: wbinek@state.nd.us ; awahl@state.nd.us ; jgharrington@dowlohn.com ; mary_lohn@mmi.net

Sent: Tuesday, November 29, 2005 2:30 PM

Subject: Midcontinent - NDTC

Don:

I have your Request for Revised Procedural Schedule. I have discussed the schedule with Midcontinent's consultants and I would suggest that Midcontinent's initial prefiled testimony and exhibits be due no later than December 21st and the other dates suggested remain the same, NDTC's responsive testimony and exhibits by January 9, 2006 and Midcontinent's rebuttal testimony on or before January 16th. The hearing to take place on January 23, 2006. Midcontinent will be filing a request for additional information from NDTC requested by its consultants. Depending upon when the information is provided, Midcontinent's rebuttal testimony may include testimony based on the additional information provided by NDTC.

Patrick W. Durick
P.O. Box 400
314 East Thayer Avenue
Bismarck, ND 58502-0400
(701) 333-0102 - Direct Dial

12/2/2005

(701) 333-0126 - Fax
(701) 220-3290 - Cell
pwd@pearce-durick.com