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April 21, 2006

VIA Electronic Filing and Regular Mail

President Tony Clark
Honorable Susan E. Wefald
Honorable Kevin Cramer
North Dakota Public Service Commission
State Capital Building, 12th Floor
600 East Boulevard, Department 408
Bismarck, ND 58505-0480

Re: Case No. PU-05-451
Midcontinent Communications v. North Dakota Telephone Company

We regret the need to send yet another communication in this matter in response to Staff memoranda. While reserving its rights with respect to all legal and factual issues that may need to be addressed arising from Commission action in this proceeding, and based on Staff's most recent submissions, North Dakota Telephone Company (NDTC) requests that, when the Commission decides this case, it make clear the scope of that decision.

As the record confirms, the scope of the issues that the Commission must resolve in this proceeding is very limited. The scope of the issues that must be addressed relate *solely* to the request made by Midcontinent Communications ("Midcontinent") to remove NDTC's existing Section 251(f)(1) exemption with respect to the provision of resale at a wholesale discount rate within the NDTC Devils Lake exchange. One interpretation of Staff's proposed Order could be that the scope of NDTC's exemption being lifted would go far beyond any request of Midcontinent, the issues the Commission identified in its Notice of Hearing and the entirety of the record, including the proffer of NDTC that it would not assert its rural exemption in the Devils Lake exchange as to Midcontinent for wholesale/resale.

Although Midcontinent's recent letter to the Commission is not the impetus for this letter, contrary to the assertion of Midcontinent in the letter, NDTC's recent submissions have not been to delay Commission action but to ensure that the law is properly applied to the facts in this proceeding.

NDTC respectfully submits that the public interest will be served by the Commission ensuring that the scope of its decision is clear and limited to the scope of the Midcontinent request. Such action will advance constitutionally guaranteed rights of due process under the U.S. Constitution, the North Dakota Constitution, the North Dakota Administrative Practices Act, and the mandates of the North Dakota Supreme Court. Likewise, a clear articulation by the Commission of the scope of its decision will enable parties to evaluate it fully and to assess the scope of any further legal recourse should that step be required.

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jt

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