

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

| | | |
|---------------------------------|---|--------------------|
| Midcontinent Communications, |) | |
| a South Dakota Partnership, |) | |
| |) | |
| Complainant, |) | |
| |) | |
| vs. |) | Case No. PU-05-451 |
| |) | |
| North Dakota Telephone Company, |) | |
| |) | |
| Respondent. |) | |

**REPLY OF NORTH DAKOTA TELEPHONE COMPANY
TO MOTION FOR LEAVE TO FILE SUPPLEMENTAL MEMORANDUM**

This Commission's rule, N.D. Admin. Code § 69-02-06-02(4), governs the time frame for filing a response to a Request for Reconsideration. This rule was clearly understood by Midcontinent Communications (herein Midco) because Midco asked the Public Service Commission (herein Commission) for an interpretation of this rule before filing its response to the Petition for Reconsideration of North Dakota Telephone Company (herein NDTC) (see attached email). Despite this, Midco now asks the Commission to ignore its own rules and to allow Midco to file a late response. NDTC resists this request.

In addition, Midco ignores that it failed to timely file its own Request for Reconsideration and now suggests that the Commission should take a different tact in this matter different than that set forth by the Commission in its Order of April 26, 2006.

NDTC resists these efforts and, to demonstrate the impropriety of Midco's request, attached hereto is a legal memorandum showing that, even if the Commission

granted Midco's request for late filing, the action urged by Midco would be ill-advised and unsupported by North Dakota law.

Dated at Minot, North Dakota, this 6th day of June, 2006.

PRINGLE & HERIGSTAD, P.C.

A handwritten signature in black ink, appearing to be 'Don Negaard', written over a horizontal line.

Don Negaard, ND Bar ID #03598
Scott M. Knudson, ID #05823
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Minot, ND 58702-1000
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Attorneys for Respondent

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Reply of North Dakota Telephone Company to Motion for Leave to File Supplemental Memorandum was served electronically and by regular mail on the 6th day of June, 2006, on the following:

Patrick W. Durick
PEARCE & DURICK
314 East Thayer Avenue
P.O. Box 400
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William W. Binek
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Don Negaard, ID #03598

Don Negaard

From: Patrick W. Durick [pwd@pearce-durick.com]
Sent: Wednesday, May 17, 2006 2:54 PM
To: Binek, William W.
Cc: Don Negaard; Mary Lohnes; -Grp-PSC Commissioners; -Grp-PSC Public Utilities; Harrington, J.G.
Subject: RE: Midcontinent - NDTC Case No. PU-05-451

Bill:

The service was by mail and electronic transmission and pursuant to Rule 6 I added three days for service by mail. Pursuant to your reading of the rules we will consider May 24th as the deadline for filing and serving a response.

Pat Durick

From: Binek, William W. [mailto:wbinek@nd.gov]
Sent: Wednesday, May 17, 2006 2:46 PM
To: Patrick W. Durick
Cc: Don Negaard; Mary Lohnes; -Grp-PSC Commissioners; -Grp-PSC Public Utilities
Subject: RE: Midcontinent - NDTC Case No. PU-05-451

The rule regarding filing of a response to a petition for reconsideration is N.D. Admin. Code §69-02-06-02(4) and provides that a party may file a response within 10 days after service of the petition. The Rules of Civil Procedure are used for computation of time in administrative proceedings. N.D.R.Civ.P 6(a) provides that when the period of time prescribed is less than 11 days, intermediate Saturdays, Sundays and legal holidays must be excluded from the computation. Applying those rules, I come up with the date of May 24th as the deadline for filing of Midcontinent's response.

From: Patrick W. Durick [mailto:pwd@pearce-durick.com]
Sent: Wednesday, May 17, 2006 2:04 PM
To: Binek, William W.
Cc: Don Negaard; Mary Lohnes
Subject: Midcontinent - NDTC Case No. PU-05-451

Bill:

The Petition for Rehearing in this matter was served upon Midcontinent by mail and electronic transmission on May 10, 2006. As I understand the applicable rules for service under the North Dakota Rules of Civil Procedure, Midcontinent's response to the Petition pursuant to N.D. Admin. Code § 69-02-06-01(3.) must be filed with the PSC and served upon North Dakota Telephone Company on or before Friday May 26, 2006. If the Commission interprets the rules for service to require a response prior to this date I would appreciate your response.

Thank you for your consideration.

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6/5/2006