

# DIVIDER

STATE OF NORTH DAKOTA

□ INFORMATION TECHNOLOGY DEPARTMENT

SFN 2053 (4-2002)

**PU-06-345**

**Midcontinent Communications/ND Telephone Co.**

**Rural Exemption**

**Investigation**

**Filed 8/2/2006**

**06**

**Closed 10/26/2006**

**STATE OF NORTH DAKOTA**  
**PUBLIC SERVICE COMMISSION**

**Midcontinent Communications/North Dakota Telephone  
Company  
Rural Exemption  
Investigation**

**Case No. PU-06-345**

**AFFIDAVIT OF SERVICE BY CERTIFIED AND ORDINARY MAIL**

STATE OF NORTH DAKOTA  
COUNTY OF BURLEIGH

**Sharon Helbling** deposes and says that:

she is over the age of 18 years and not a party to this action and, on the **21st day of September, 2006**, she deposited in the United States Mail, Bismarck, North Dakota, **two** envelopes with certified postage, return receipt requested, fully prepaid, securely sealed and each containing a photocopy of:

**Order Approving Stipulation**

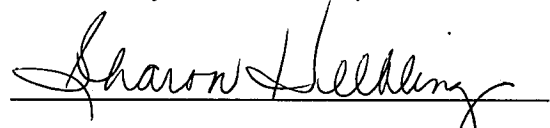
The envelopes were addressed as follows:

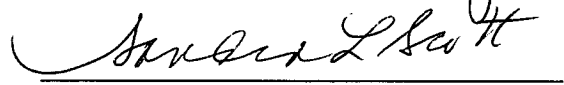
Patrick W Durick  
Pearce & Durick  
314 E Thayer Ave  
Bismarck ND 58502-0400  
**Cert. No. 7005 3110 0003 6265 6304**

Don Negaard  
Pringle & Herigstad  
P O Box 1000  
Minot ND 58702-1000  
**Cert. No. 7005 3110 0003 6265 6311**

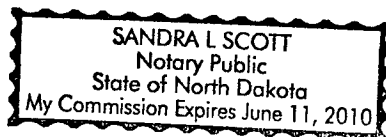
Each address shown is the respective addressee's last reasonably ascertainable post office address.

Subscribed and sworn to before me  
this **21st day of September, 2006**.

  
\_\_\_\_\_

  
\_\_\_\_\_

Notary Public



SEAL

**APPROVED**

DATE: 9-20-06  
AW

**MOTION**

**September 20, 2006**

**Midcontinent Communications/North Dakota  
Telephone Company  
Rural Exemption  
Investigation**

**Case No. PU-06-345**

I move the Commission adopt the Order Approving the stipulation filed by  
Midcontinent Communications and North Dakota Telephone Company in this  
proceeding.

WWB/sdh

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Midcontinent Communications/North Dakota  
Telephone Company  
Rural Exemption  
Investigation**

**Case No. PU-06-345**

**ORDER APPROVING STIPULATION**

**September 20, 2006**

On April 26, 2006 Midcontinent Communications (Midcontinent) made a bona fide request under 47 U.S.C. § 251(c) for facilities-based interconnection, the exchange of traffic, number portability and other customary arrangements (interconnection services) for the Devils Lake, North Dakota exchange from North Dakota Telephone Company (NDTC). By its filing of August 2, 2006 Midcontinent notified the North Dakota Public Service Commission (Commission) of its bona fide request. Midcontinent requested that the Commission conduct an inquiry for the purpose of determining whether to terminate NDTC's 47 U.S.C. § 251(f)(1)(A) exemption for all NDTC exchanges, and for all services required under 47 U.S.C. § 251(c).

On August 29, 2006, the parties filed a Stipulation with the Commission which provides for the entry of an order by the Commission terminating the rural exemption of NDTC within NDTC's Devils Lake, North Dakota exchange solely with respect to Midcontinent's request of NDTC for Section 251(c) interconnection. A copy of the Stipulation of the parties marked as Attachment 1 is attached to this order and is incorporated herein in its entirety.

The parties stipulated the request of Midcontinent, as applied solely to NDTC and to the NDTC Devils Lake exchange (1) is not unduly economically burdensome, (2) is technically feasible, and (3) is consistent with the goals of 47 U.S.C. § 254, other than sections (b)(7)(D) thereof.

The parties agree that for purposes of establishing the time frames established in Section 252 of the Act for negotiation, arbitration and resolution of the request for interconnection, that the request from Midcontinent was received by NDTC on June 1, 2006, and that the effective date for implementation of any negotiated agreement will be March 1, 2007.

The Commission finds the Stipulation of the parties is acceptable and hereby makes the following:

**ORDER**

The Commission orders:

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PU-06-345

Pages: 5

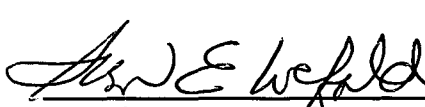
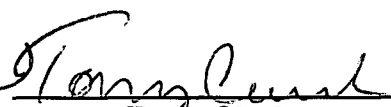

Order Approving Stipulation

by Public Service Commission

09/20/2006 CC: Comm Legal Illona, Pat, Annette . .

1. The Stipulation is approved in its entirety without modification.
2. NDTC's rural exemption under Section 251(f)(1) of the Act for facilities-based interconnection, the exchange of traffic, number portability and other customary arrangements is terminated with respect to the Midcontinent request and solely with respect to NDTC and solely to the NDTC Devils Lake, North Dakota exchange.
3. Approval of the Stipulation and issuance of this order shall not be considered as precedent for any future cases involving termination of a rural exemption under N.D.C.C. § 49-21-01.7(11) and Section 251(f)(1) of the Act.

**PUBLIC SERVICE COMMISSION**

		
<b>Susan E. Wefald</b> Commissioner	<b>Tony Clark</b> President	<b>Kevin Cramer</b> Commissioner

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Midcontinent Communications, a  
South Dakota Partnership,**

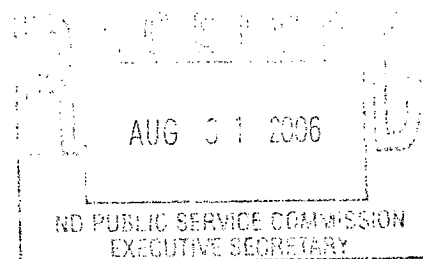
**Case No. PU-06-345**

**Complainant,**

**vs.**

**North Dakota Telephone Company,**

**Respondent.**



**STIPULATION**

WHEREAS, by "NOTICE OF BONA FIDE REQUEST FOR SERVICES" (herein "the NOTICE") dated August 2, 2006 Midcontinent Communications (herein "Midcontinent") requested the North Dakota Public Service Commission (herein the "Commission") to conduct an inquiry on a request to provide certain telecommunications services in North Dakota Telephone Company (herein "NDTC") Devils Lake, ND exchange (herein the "Exchange") under an interconnection agreement for certain services under Section 251(c) of the Communications Act of 1934, as amended (the "Act"), and

WHEREAS, it appears to both Midcontinent and NDTC (collectively called the "the Parties") that the Commission has authority to arbitrate or mediate, as may be appropriate, an interconnection agreement between the Parties, and

WHEREAS, the Parties have each concluded that the public interest in avoiding future litigation and resource commitments of the Commission and the Parties would be advanced through the compromise and settlement of conflicting positions that the Parties have with respect to the subject matter of the Notice and the issuance by the Commission of an Order as set forth below, without the necessity of conducting a hearing,

NOW, THEREFORE, IT IS STIPULATED AND AGREED AS FOLLOWS:

1. A. That the Parties agree that, (a) based on the specific scope of the request made by Midcontinent limiting such request to the Exchange and (b) the fact that NDTC currently anticipates providing video programming services in competition with Midcontinent in February, 2007 for the Exchange or shortly thereafter, the Commission may enter an ORDER upon receipt of this signed stipulation, specifically finding that the request of Midcontinent, as applied solely to NDTC and solely to the Exchange:
  1. is not unduly, economically burdensome,
  2. is technically feasible, and
  3. is consistent with the goals of 47 USC Section 254, other than subsections (b)(7) and (c)(1)(D) thereof;
- B. The Parties further agree that, in the submission of this Stipulation, they will jointly encourage the Commission to adopt this Stipulation without change as to its scope and effect;
- C. Should the Commission deem it necessary to hold further proceedings in any form including without limitation a hearing (the "Commission Action"), the Parties will respond to the Commission Action with submissions that are wholly consistent with this Stipulation and the Parties shall not, in any way, suggest alteration of the Stipulation either directly or indirectly by any and all submissions required of either of them by the Commission Action; and
- D. The Parties each further agree that, since each of the terms contained herein are inexorably intertwined with the others and reflect a compromise of all relevant considerations of the Parties with respect to the matters raised by the Notice,

should a decision issued by the Commission on this Stipulation change in any way the terms of this Stipulation the Stipulation shall become null and void unless both Parties agree to abide by such Commission. change

2. For purposes of establishing the time frames established in Section 252 of the Act for negotiation, arbitration and resolution of the request for interconnection made by Midcontinent to NDTC (the "Request"), the Parties agree that the Request from Midcontinent was received by NDTC on June 1, 2006, and that the effective date for implementation of any negotiated agreement will be March 1, 2007.

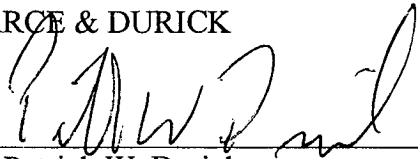
3. That either Party shall have the ability to seek the assistance of the Commission through mediation by a letter to Commission no sooner than 10 days following a letter to the other Party indicating that there is an impasse on an issue or issues.

4. The Parties further agree that, as an integral component of the compromise and settlement of positions reflected in this Stipulation (including the avoidance of the expense associated with currently scheduled Commission proceedings), the discount rate for wholesale resale under the resale agreement dated August 21, 2006 (the "Agreement") shall be seventeen percent (17%) for the initial term of the Agreement. Nothing in this Section 4 shall prohibit either Party from seeking to renegotiate this rate or requesting that the Commission determine the correct resale discount at any time after the initial term of the Agreement.

5. Within 3 business days of the execution of this Stipulation, the Parties, through their respective counsel, shall jointly file this Stipulation with the Commission and seek the Commission's prompt approval of it.

6. This Stipulation may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

PEARCE & DURICK



By: Patrick W. Durick  
Attorneys for Midcontinent Communications  
314 East Thayer Avenue  
P.O. Box 400  
Bismarck, ND 58502-0400

PRINGLE & HERIGSTAD, P.C.



By: Don Negaard  
Attorneys for North Dakota Telephone  
Company  
2525 Elk Drive  
P.O. Box 1000  
Minot, ND 58702-1000

Dated: \_\_\_\_\_

8/22/06  
Jg  
mp

Dated: August 21, 2006

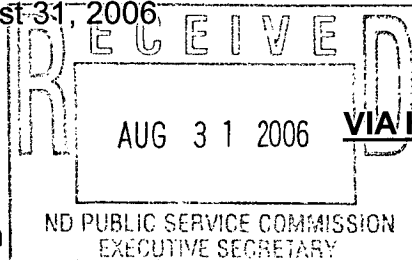


WILLIAM P. PEARCE  
 PATRICK W. DURICK  
 B. TIMOTHY DURICK  
 GARY R. THUNE  
 DAVID E. REICH  
 JEROME C. KETTLESON  
 LARRY L. BOSCHEE ♦♦  
 LAWRENCE BENDER, PC ♦  
 JONATHAN P. SANSTEAD  
 TIFFANY L. JOHNSON

ATTORNEYS AT LAW  
 314 EAST THAYER AVENUE  
 P.O. BOX 400  
 BISMARCK, NORTH DAKOTA 58502

TELEPHONE (701) 223-2890  
 FAX (701) 223-7865  
 EMAIL: law.office@pearce-durick.com

August 31, 2006



**VIA HAND DELIVERY**

Illona Jeffcoat-Sacco  
 Executive Director  
 North Dakota Public Service Commission  
 Capitol  
 600 East Boulevard, Ninth Floor  
 Bismarck, North Dakota 58505

Re: Midcontinent Communications/North Dakota Telephone Company  
 Rural Exemption Investigation – Facilities  
 PU-06-345

Dear Commissioners:

Enclosed for filing herewith is an original and seven copies of a **STIPULATION**. I have also enclosed an original and seven copies of proposed **FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER ON STIPULATION ADDRESSING REQUEST FOR SECTION 251(c) INTERCONNECTION** ("Proposed Order"). Mr. Negaard and I have agreed to the form of the Proposed Order and request that the Commission consider and adopt the Proposed Order pursuant to the Stipulation.

We are also electronically filing these documents with the Commission.

If you have any questions, please do not hesitate to contact either our office or Mr. Negaard's office.

Sincerely,

Patrick W. Durick  
 Counsel to Midcontinent Communications

PWD/jf

Enclosures.

cc: Donald Negaard (via email)  
 William Binek (via email)

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Pages: 1

Letter re filing of Stipulation & Proposed Findings  
 by Midcontinent Communications by Patrick Durick

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Midcontinent Communications, a  
South Dakota Partnership,**

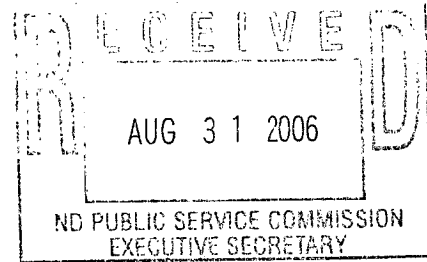
**Case No. PU-06-345**

**Complainant,**

**vs.**

**North Dakota Telephone Company,**

**Respondent.**



**STIPULATION**

WHEREAS, by "NOTICE OF BONA FIDE REQUEST FOR SERVICES" (herein "the NOTICE") dated August 2, 2006 Midcontinent Communications (herein "Midcontinent") requested the North Dakota Public Service Commission (herein the "Commission") to conduct an inquiry on a request to provide certain telecommunications services in North Dakota Telephone Company (herein "NDTC") Devils Lake, ND exchange (herein the "Exchange") under an interconnection agreement for certain services under Section 251(c) of the Communications Act of 1934, as amended (the "Act"), and

WHEREAS, it appears to both Midcontinent and NDTC (collectively called the "the Parties") that the Commission has authority to arbitrate or mediate, as may be appropriate, an interconnection agreement between the Parties, and

WHEREAS, the Parties have each concluded that the public interest in avoiding future litigation and resource commitments of the Commission and the Parties would be advanced through the compromise and settlement of conflicting positions that the Parties have with respect to the subject matter of the Notice and the issuance by the Commission of an Order as set forth below, without the necessity of conducting a hearing,

NOW, THEREFORE, IT IS STIPULATED AND AGREED AS FOLLOWS:

1. A. That the Parties agree that, (a) based on the specific scope of the request made by Midcontinent limiting such request to the Exchange and (b) the fact that NDTC currently anticipates providing video programming services in competition with Midcontinent in February, 2007 for the Exchange or shortly thereafter, the Commission may enter an ORDER upon receipt of this signed stipulation, specifically finding that the request of Midcontinent, as applied solely to NDTC and solely to the Exchange:
  1. is not unduly, economically burdensome,
  2. is technically feasible, and
  3. is consistent with the goals of 47 USC Section 254, other than subsections (b)(7) and (c)(1)(D) thereof;
- B. The Parties further agree that, in the submission of this Stipulation, they will jointly encourage the Commission to adopt this Stipulation without change as to its scope and effect;
- C. Should the Commission deem it necessary to hold further proceedings in any form including without limitation a hearing (the "Commission Action"), the Parties will respond to the Commission Action with submissions that are wholly consistent with this Stipulation and the Parties shall not, in any way, suggest alteration of the Stipulation either directly or indirectly by any and all submissions required of either of them by the Commission Action; and
- D. The Parties each further agree that, since each of the terms contained herein are inexorably intertwined with the others and reflect a compromise of all relevant considerations of the Parties with respect to the matters raised by the Notice,

should a decision issued by the Commission on this Stipulation change in any way the terms of this Stipulation the Stipulation shall become null and void unless both Parties agree to abide by such Commission. change

2. For purposes of establishing the time frames established in Section 252 of the Act for negotiation, arbitration and resolution of the request for interconnection made by Midcontinent to NDTC (the "Request"), the Parties agree that the Request from Midcontinent was received by NDTC on June 1, 2006, and that the effective date for implementation of any negotiated agreement will be March 1, 2007.

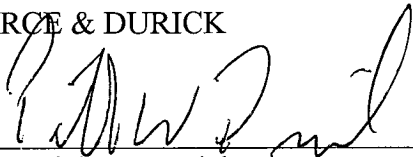
3. That either Party shall have the ability to seek the assistance of the Commission through mediation by a letter to Commission no sooner than 10 days following a letter to the other Party indicating that there is an impasse on an issue or issues.

4. The Parties further agree that, as an integral component of the compromise and settlement of positions reflected in this Stipulation (including the avoidance of the expense associated with currently scheduled Commission proceedings), the discount rate for wholesale resale under the resale agreement dated August 21, 2006 (the "Agreement") shall be seventeen percent (17%) for the initial term of the Agreement. Nothing in this Section 4 shall prohibit either Party from seeking to renegotiate this rate or requesting that the Commission determine the correct resale discount at any time after the initial term of the Agreement.

5. Within 3 business days of the execution of this Stipulation, the Parties, through their respective counsel, shall jointly file this Stipulation with the Commission and seek the Commission's prompt approval of it.

6. This Stipulation may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

PEARCE & DURICK



By: Patrick W. Durick  
Attorneys for Midcontinent Communications  
314 East Thayer Avenue  
P.O. Box 400  
Bismarck, ND 58502-0400

PRINGLE & HERIGSTAD, P.C.



By: Don Negaard  
Attorneys for North Dakota Telephone  
Company  
2525 Elk Drive  
P.O. Box 1000  
Minot, ND 58702-1000

Dated:

8/22/06  
Jg  
mp

Dated: August 21, 2006

**STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION**

**Midcontinent Communications, a  
South Dakota Partnership,**

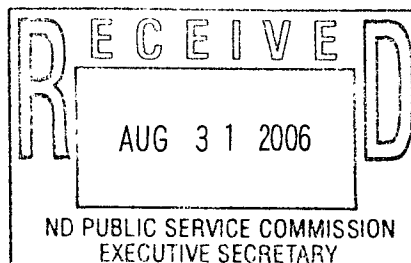
**Case No. PU-06-345**

**Complainant,**

**vs.**

**North Dakota Telephone Company,**

**Respondent**



**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER  
ON STIPULATION ADDRESSING REQUEST FOR SECTION 251(c)  
INTERCONNECTION**

**September 6, 2006**

**Appearances**

Commissioners Tony Clark, Susan E. Wefald and Kevin Cramer.

Don Negaard, Pringle & Herigstad, P.C., P.O. Box 1000, Minot, North Dakota 58702, appearing on behalf of North Dakota Telephone Company, Devils Lake, North Dakota.

Patrick W. Durick, Pearce & Durick, P.O. Box 400, Bismarck, ND 58502-0400, appearing on behalf of Midcontinent Communications.

**Preliminary Statement**

By "NOTICE OF BONA FIDE REQUEST FOR SERVICES" (herein "the NOTICE") dated August 2, 2006, Midcontinent Communications, a South Dakota Partnership (herein "Midcontinent") requested the North Dakota Public Service Commission (herein the "Commission") to conduct an inquiry on a request to provide certain telecommunications services in North Dakota Telephone Company (herein "NDTC") Devils Lake, ND exchange (herein sometimes referred to as the "Exchange") under an interconnection agreement for certain services under Section 251(c) of the Communications Act of 1934, as amended (the "Act"). We will refer to Midcontinent and NDTC as the "Parties" or individually as a "Party."

Order Approving Stipulation  
Case No. PU-06-345  
Page 1

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**PU-06-345**

Pages: 4

Proposed Findings of Fact, Conclusions of Law  
and Order  
by Midcontinent Communications by Patrick Durick  
08/31/2006 CC: Comm Legal Illona, Pat, Annette

The Parties have entered in to a Stipulation dated August 29, 2006 ( the "Stipulation") which has been filed herein and is incorporated in its entirety by reference. The Stipulation provides for the entry of an Order by the Commission as provided for in the Stipulation, thereby terminating the rural exemption of NDTC within its Devils Lake, North Dakota exchange solely with respect to the Midcontinent request for Section 251(c) interconnection that Midcontinent made of NDTC.

The Commission having reviewed the positions of the Parties as reflected in the Stipulation and being fully advised hereby adopts the following:

### **FINDINGS OF FACT**

1. Midcontinent filed a request with NDTC for facilities based interconnection for the NDTC Devils Lake exchange and the Parties have stipulated, with the approval by the Commission of the Stipulation, that the date on which the request was received by NDTC would be June 1, 2006.

2. The Parties' Stipulation states that they agree, and we so find, that (a) based on the specific scope of the request made by Midcontinent limiting such request to the Exchange and (b) the fact that NDTC currently anticipates providing video programming services for the Exchange in competition with Midcontinent in February 2007 or shortly thereafter, the Commission may enter an order, specifically finding that the request of Midcontinent, as applied solely to NDTC and solely to the NDTC Devils Lake exchange: (1) is not unduly, economically burdensome, (2) is technically feasible, and (3) is consistent with the goals of 47 USC Section 254, other than sections (b)(7)(D) thereof.

3. Utilization of the Section 252 time frames for the negotiation/mediation/arbitration for purposes of the procedures to address the Midcontinent request is reasonable and appropriate and consistent with the Parties' agreement contained in the Stipulation.

4. Absent the entry of an Order by the Commission as provided for in the Stipulation the Parties will be engaged in further litigation and additional resource commitments will need to be made by the Commission and the Parties.

From the foregoing Findings of Fact, the Commission makes the following:

### **CONCLUSIONS OF LAW**

1. The Commission has jurisdiction over the Parties and the subject matter of this proceeding.

2. The criteria for termination of NDTC's rural exemption with respect to the Midcontinent request under 47 USC Section 251(f)(1) are (a) whether Midcontinent's

request is unduly economically burdensome; (b) whether Midcontinent's request is technically feasible; and (c) whether Midcontinent's request is consistent with 47 U.S.C. § 254 (other than subsections (b)(7) and (c)(1)(D) thereof).

3. The entry of an Order as provided for in the Stipulation is in the public interest as it will avoid further litigation and allow the Parties to proceed with the negotiation/mediation/arbitration process envisioned under Section 252 of the Act. The Commission's actions also fosters private entities' ability to reach a reasonable compromise and settlement of conflicting positions and results in the avoidance of resource commitments by not only the Parties but also the Commission.

4. The request by Midcontinent as applied solely to NDTC and solely to the NDTC Devils Lake exchange (1) is not unduly, economically burdensome, (2) is technically feasible and (3) is consistent with the goals of 47 USC Section 254, other than sections (b)(7)(D) thereof.

5. The times frames established under Section 252 of the Act for the negotiation/mediation/arbitration processes shall begin the day after the request for interconnection made by Midcontinent to NDTC was received (which the Parties agree that the receipt date shall be June 1, 2006), thus making the implementation date of any negotiated agreement March 1, 2007.

6. Either Party may seek the assistance of the Commission through mediation by a letter to Commission no sooner than 10 days following a letter to the other Party indicating that there is an impasse on an issue or issues during the negotiation period prescribed by Section 252 of the Act.

From the foregoing Findings of Fact and Conclusions of Law, the Commission makes the following:

### **ORDER**

The Commission orders:

1. The Stipulation is approved in its entirety without modification.
2. The rural exemption afforded NDTC under Section 251(f)(1) for facilities based interconnection is terminated with respect to the Midcontinent request and solely with respect to NDTC and solely to the NDTC Devils Lake exchange.
3. The Commission retains jurisdiction of the matter for the purpose of mediating or arbitrating the terms of the interconnection agreement, if necessary; and for establishing an implementation schedule, if necessary.

**PUBLIC SERVICE COMMISSION**

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**Susan E. Wefald  
Commissioner**

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**Tony Clark  
President**

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**Kevin Cramer  
Commissioner**



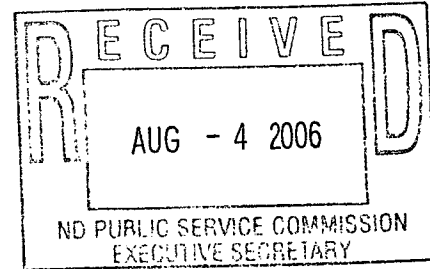
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ATTORNEYS AT LAW  
314 EAST THAYER AVENUE  
P.O. BOX 400  
BISMARCK, NORTH DAKOTA 58502

TELEPHONE (701) 223-2890  
FAX (701) 223-7865  
E-MAIL: law.office@pearce-durick.com

August 3, 2006

Illona Jeffcoat-Sacco  
Executive Director  
North Dakota Public Service Commission  
Capitol  
600 East Boulevard, Ninth Floor  
Bismarck, North Dakota 58505



Re: Midcontinent Communications/North Dakota Telephone Company  
Rural Exemption Investigation - Facilities

Dear Commissioners:

Enclosed are seven copies of Exhibits "A" and "B" which were inadvertently omitted from the **NOTICE OF BONA FIDE REQUEST FOR SERVICES** we filed yesterday.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

Patrick W. Durick  
Counsel to Midcontinent Communications

PWD/me

Enclosures.

c: Donald Negaard (via email)  
William Binek (via email)

5 PU-06-345

Pages: 1

Letter re Exhibits A & B

by Midcontinent Communications by Patrick Durick, Atto  
08/04/2006 CC: Comm Legal Illona, Pat, Annette . .



WILLIAM P. PEARCE  
 PATRICK W. DURICK  
 B. TIMOTHY DURICK  
 GARY R. THUINE  
 DAVID E. REICH  
 JEROME C. KETTLESON  
 LARRY L. BOSCHEE ••  
 LAWRENCE BENDER, PC •  
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ATTORNEYS AT LAW  
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 BISMARCK, NORTH DAKOTA 58502

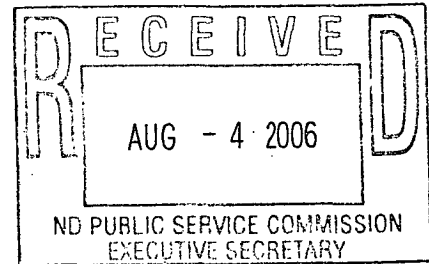
TELEPHONE (701) 223-2890  
 FAX (701) 223-7865  
 E-MAIL: law.office@pearce-durick.com

April 26, 2006

**VIA EXPRESS MAIL - RETURN RECEIPT REQUESTED**

Mr. David Dircks  
 General Manager  
 North Dakota Telephone Company  
 Devils Lake, North Dakota 58301-0180

Re: Midcontinent Communications  
 Request for Interconnection Agreement



Dear Mr. Dircks:

I am writing on behalf of Midcontinent Communications ("Midcontinent"). As you know, in its order in Case No. PU-05-451, issued on April 26, 2006, the North Dakota Public Service Commission lifted the rural exemption under Section 251(f)(1) of the federal Communications Act of 1934, as amended (the "Act"), 47 U.S.C. § 251(f)(1), as it applied to North Dakota Telephone Company ("NDTC") in the Devil's Lake exchange. In light of that decision, the purpose of this letter is to request an interconnection agreement with NDTC for the purpose of facilities-based interconnection, the exchange of traffic, number portability and other customary arrangements between incumbent telephone companies such as NDTC and competitive LECs such as Midcontinent in the Devils Lake exchange. Midcontinent seeks to begin providing facilities-based telephone service in Devils Lake on or about February 1, 2007, or sooner if appropriate arrangements can be completed before that time.

This request is made under the provisions of Section 252(a)(1) of the Act, 47 U.S.C. § 252(a)(1), and is intended to trigger the time periods for negotiation and arbitration under Section 252 of the Act. This request also constitutes a request for local telephone number portability under Section 52.23(c) of the rules of the Federal Communications Commission. 47 C.F.R. § 52.23(c).

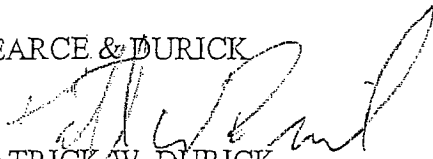
We would like to begin negotiations expeditiously so that we can complete them prior to the deadline for seeking arbitration under Section 252 of the Act. Midcontinent representatives would be available to meet with you or your representatives at a mutually convenient time during the first two weeks of May. Please contact me at the telephone number or email address above to make arrangements for an initial meeting.

Mr. David Dircks -2-  
April 26, 2006

We look forward to negotiating and implementing an interconnection agreement with NDTC.

Sincerely,

PEARCE & DURICK



PATRICK W. DURICK

PWD/jf

cc: Donald Negaard  
Nancy Vogel

**POST OFFICE  
TO ADDRESSEE**



\*E 1 4 0 8 9 6 7 1 2 7 U S \*

EL 408967127US

PC ZIP Code 58501	Day of Delivery <input type="checkbox"/> Next <input checked="" type="checkbox"/> Second	Flat Rate Envelope <input checked="" type="checkbox"/>
Date In 4-26-98 Mo. Day Year	<input type="checkbox"/> 12 Noon <input checked="" type="checkbox"/> 3 PM	Postage \$
Time In 5:15 <input type="checkbox"/> AM <input checked="" type="checkbox"/> PM	Military <input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	Return Receipt Fee
Weight lbs. ozs.	Int'l Alpha Country Code	COD Fee Insurance Fee
No Delivery <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Acceptance Clerk Initials	Total Postage & Fees \$

**SEE REVERSE SIDE FOR  
SERVICE GUARANTEE AND LIMITS  
ON INSURANCE COVERAGE**

Customer Copy  
Label 11-F July 1997

<b>CUSTOMER USE ONLY</b>		<input type="checkbox"/> <b>WAIVER OF SIGNATURE</b> (Domestic Only) Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery.	
METHOD OF PAYMENT: Express Mail Corporate Acct. No. X 585223		<input type="checkbox"/> <b>NO DELIVERY</b> <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	
Federal Agency Acct. No. or Postal Service Acct. No.		Customer Signature	
<b>FROM: (PLEASE PRINT)</b> PEARCE & DURICK LAW FIRM 314 E THAYER AVE STE 300 PO BOX 400 BISMARCK ND 58502-0400	PHONE (701) 223 2890	<b>TO: (PLEASE PRINT)</b> DAVID DIRCKS GENERAL MANAGER NDTC P. O. BOX 180 DEVILS LAKE ND 58301-0180	PHONE

DONALD A. NEGAARD  
JAMES E. NOSTDAHL  
CAROL K. LARSON  
DAVID J. HOGUE  
REED A. SODERSTROM  
BRENT M. OLSON  
DEBRA L. HOFFARTH  
SCOTT M. KNUDSVIG  
RYAN D. SANDBERG  
OF COUNSEL  
HERBERT L. MESCHKE



LAW OFFICES OF  
**PRINGLE & HERIGSTAD, P.C.**

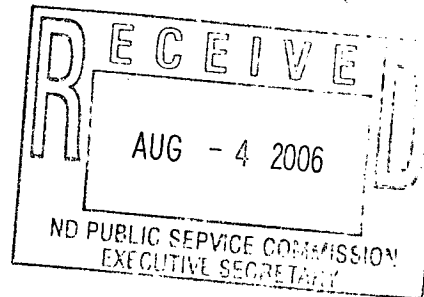
2525 ELK DRIVE  
POST OFFICE BOX 1000  
MINOT, NORTH DAKOTA 58702  
(701) 852-0381  
FAX (701) 857-1361  
E-mail: pringle@srt.com

RETIRED  
THOMAS A. WENTZ  
MARK F. PURDY  
JAN M. SEBBY

KENNETH G. PRINGLE  
(1914-1983)  
MITCHELL H. MAHONEY  
(1929-1996)  
ROGER O. HERIGSTAD  
(1919-2003)

July 7, 2006

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



Mr. Durick:

This letter is to advise Midcontinent that North Dakota Telephone Company does not consider any valid request for facilities based interconnection on the Devils Lake exchange to be in place at this time.

The request of Midcontinent was hinged on the April 26, 2006 Order of the North Dakota Public Service Commission and, as we are all aware, that Order was revised to limit the scope of the Order to wholesale/resale.

Don Negaard  
Pringle & Herigstad, P.C.  
2525 Elk Drive  
P.O. Box 1000  
Minot, ND 58702-1000

jat

cc: Dave Dircks

3 PU-06-345

Pages: 1

Exhibit "B"

**EXHIBIT "B"**

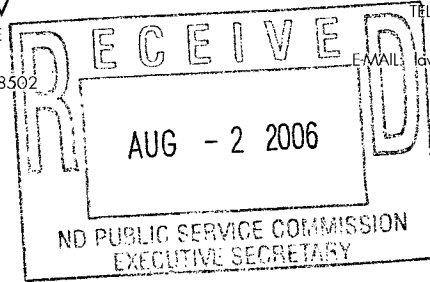
by Midcontinent Communications by Patrick Durick, Atto  
08/04/2006 CC: Comm Legal Illona, Pat, Annette . .



WILLIAM P. PEARCE  
PATRICK W. DURICK  
B. TIMOTHY DURICK  
GARY R. THUNE  
JEROME C. KETTLESON  
LARRY L. BOSCHEE ••  
LAWRENCE BENDER, PC •  
JONATHAN P. SANSTEAD  
TIFFANY L. JOHNSON

ATTORNEYS AT LAW  
314 EAST THAYER AVENUE  
P.O. BOX 400  
BISMARCK, NORTH DAKOTA 58502

TELEPHONE (701) 223-2890  
FAX (701) 223-7865  
E-MAIL law.office@pearce-durick.com



August 2, 2006

**VIA HAND DELIVERY**

Illona Jeffcoat-Sacco  
Executive Director  
North Dakota Public Service Commission  
Capitol  
600 East Boulevard, Ninth Floor  
Bismarck, North Dakota 58505

Re: Midcontinent Communications/North Dakota Telephone Company  
Rural Exemption Investigation - Facilities

Dear Commissioners:

Enclosed for filing herewith is an original and seven copies of **NOTICE OF BONA FIDE REQUEST FOR SERVICES**. We are also electronically filing these documents with the Commission.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

Patrick W. Durick  
Counsel to Midcontinent Communications

PWD/jf

Enclosures.

c: Donald Negaard (via email)  
William Binek (via email)

2

PU-06-345

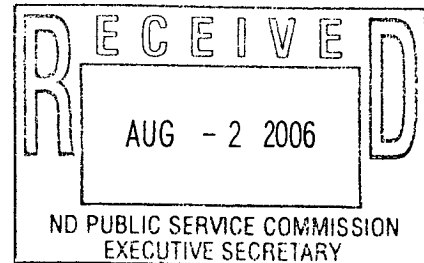
Pages: 1

Letter re Notice of Bona Fide Request for  
Services  
by Midcontinent Communications by Patrick Durick, Atto  
08/02/2006 CC: Comm Legal Illona, Pat, Annette . . .

STATE OF NORTH DAKOTA  
PUBLIC SERVICE COMMISSION

Case No. \_\_\_\_\_

Midcontinent Communications, a )  
South Dakota Partnership, )  
 )  
Complainant, )  
 )  
vs. )  
 )  
North Dakota Telephone Company. )  
 )  
Respondent. )



**NOTICE OF BONA FIDE REQUEST FOR SERVICES**

Pursuant to 47 U.S.C. §251f(1)(B) Midcontinent Communications (“Midcontinent”) hereby provides notice that by letter dated April 26, 2006, a copy of which is marked as Exhibit “A” and attached hereto, it made a bona fide request to North Dakota Telephone Company (“NDTC”), the incumbent local exchange carrier for Devils Lake, under the provisions of 47 U.S.C. §251(c) for facilities-based interconnection, the exchange of traffic, number portability and other customary arrangements between incumbent telephone companies such as NDTC and competitive local exchange carriers such as Midcontinent for the Devils Lake, ND exchange. By letter dated July 7, 2006, marked as Exhibit B and attached hereto, NDTC claimed the rural exemption status provided in 47 U.S.C. §251(f)(1)(A) as evidenced by NDTC refusal to consider Midcontinent’s 47 U.S.C. §251(c) bona fide request for facilities-based interconnection, the exchange of traffic, number portability and other customary arrangements between incumbent telephone companies such as NDTC and competitive local exchange carriers such as Midcontinent for the Devils Lake, ND exchange.

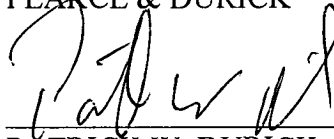
WHEREFORE, Midcontinent requests that pursuant to the provisions of 47 U.S.C. §251(f)(1)(A) this agency conduct an inquiry for the purpose of determining whether Midcontinent’s request under 47 U.S.C. §251(c) for facilities-based interconnection, the

exchange of traffic, number portability and other customary arrangements between incumbent telephone companies such as NDTC and competitive local exchange carriers such as Midcontinent for the Devils Lake, ND exchange from NDTC is not unduly economically burdensome, is technically feasible, and is consistent with section 254 of Title 47 U.S.C. (other than subsections (b)(7) and (c)(1)(D) of Section 254 of that Title) and that therefore NDTC's exemption under 47 U.S.C. 251(f)(1)(A) should be terminated.

In light of NDTC's stated intention to begin providing video service in the Devils Lake exchange in early 2007, Midcontinent further requests that the Commission establish a prompt implementation schedule for the arrangements described above. This schedule should require NDTC to make those arrangements available to Midcontinent no later than February 26, 2007, nine months after the date of Midcontinent's request for interconnection.

Dated this 2<sup>nd</sup> day of August, 2006.

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,  
a South Dakota Partnership,  
  
Complainant,

vs.

North Dakota Telephone Company,  
  
Respondent.

**AFFIDAVIT OF SERVICE BY MAIL**

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

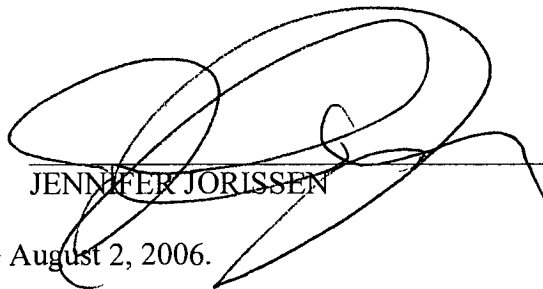
Jennifer Jorissen, hereby certifies that on August 2, 2006, she served a copy of the foregoing:

**NOTICE OF BONA FIDE REQUEST FOR SERVICES**

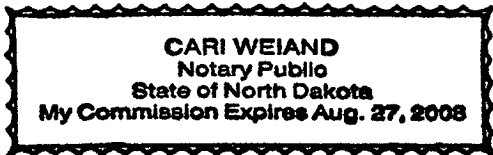
by placing a true and correct copy thereof in an envelope and depositing the same, with postage prepaid, in the United States mail at Bismarck, North Dakota. addressed to the following:

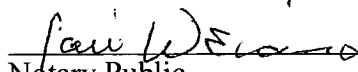
Mr. Donald Negaard  
Pringle & Herigstad  
P. O. Box 1000  
Minot, ND 58702-100

William W. Binek  
Public Service Commission  
Capitol  
600 East Boulevard Avenue  
Bismarck, North Dakota 58505

  
JENNIFER JORISSEN

Subscribed and sworn to before me August 2, 2006.



  
Notary Public  
Burleigh County, North Dakota

PU-06-345

<p><b>S</b></p> <ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature</p> <p><input checked="" type="checkbox"/> Cheryl Hanson <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Don Negaard Runde &amp; Livingston PO Box 1000 Mundt ND 58702-1000</p>		<p>B. Received by (Printed Name)</p> <p>Cheryl Hanson</p>	<p>C. Date of Delivery</p> <p>9/22/06</p>
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p style="text-align: center; font-size: 1.5em;">SEP 22 2006</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>7005 3110 0003 6265 6311</p>	
<p>PS Form 3811, February 2004</p>		<p>Domestic Return Receipt</p>	<p>102595-02-M-1540</p>

PU-06-345

<p><b>SENDER: COMPLETE THIS SECTION</b></p> <ul style="list-style-type: none"> <li>Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</li> <li>Print your name and address on the reverse so that we can return the card to you.</li> <li>Attach this card to the back of the mailpiece, or on the front if space permits.</li> </ul>		<p>A. Signature</p> <p><input checked="" type="checkbox"/> Belinda Dick <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Patrick W Durick Place &amp; Durick 314 &amp; Shayer Ave Bismarck ND 58502-0400</p>		<p>B. Received by (Printed Name)</p> <p>Belinda Dick</p>	<p>C. Date of Delivery</p> <p>9-22-06</p>
		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>7005 3110 0003 6265 6304</p>	
<p>PS Form 3811, February 2004</p>		<p>Domestic Return Receipt</p>	<p>102595-02-M-1540</p>