

***JKS Consulting, Inc.
612 Bellerive Boulevard
Nicholasville, KY 40356***

April 2, 2008

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PUBLIC SERVICE COMMISSION

Mr. William Binek, Chief Counsel
North Dakota Public Service Commission
Dept. 408
Bismarck, ND 58505-0480

Dear Mr. Binek:

Please find enclosed the original copy of the arbitrator's procedural order in Case No. PU-08-58.

If there are any questions concerning the order, please contact me at either 859-272-9449 (office) or 859-619-9449 (cell).

Sincerely,

James K. Sharpe
Arbitrator

Enclosure:

In the Matter of:

Midcontinent Communications/BEK)
Communications Cooperative Interconnection)
Arbitration Application) CASE NO. PU-08-58

ABITRATOR’S ORDER

On August 30, 2007, Midcontinent Communications (“Midcontinent”) requested negotiations for the purpose of developing an interconnection agreement with BEK Communications Cooperative (“BEK”) in the cities of Linton, Wishek, Napoleon, Wilton, Zeeland, and Lehr, North Dakota. BEK received the letter on August 31, 2007. On February 5, 2008, Midcontinent petitioned the North Dakota Public Service Commission (“Commission”) to arbitrate its dispute with BEK concerning General Terms and Conditions; Pre-Ordering, Ordering, Provisioning, Maintenance and Repair Attachment; Number Portability Attachment; Interconnection Attachment; Ancillary Services Attachment; and Pricing Attachment for these exchanges. On February 29, 2008, BEK filed its response to Midcontinent’s petition.

Pursuant to N.D. Administrative Code 69-02-10-12 the Commission appointed an arbitrator to conduct the proceedings. On March 19, 2008, pursuant to N.D. Administrative Code 69-02-10-14, the arbitrator held a prehearing conference for the purpose of developing a procedural schedule, areas of testimony, the scope and timing of discovery, and to identify issues for arbitration.

Consistent with the Commission’s Administrative Code and the Telecommunications Act of 1996, the arbitrator proposed a procedural schedule that would permit the completion of the proceeding on May 26, 2008. During the conference Midcontinent and BEK expressed concern with the compressed procedural schedule and agreed to stipulate an extension of time for the arbitrator’s recommended decision to June 12, 2008. After adjusting the times in the procedural schedule to reflect the additional time, Midcontinent and BEK agreed with the arbitrator’s proposed procedural schedule and the issues list. Midcontinent and BEK indicated that they are continuing to make progress in their negotiations and the addition of time may assist them in reducing the number of issues for hearing.

The identification of the issues and their definitions are included as Appendix B of this Order. In most cases, there are a number of subparts to each issue which will be addressed by BEK and Midcontinent during the hearing.

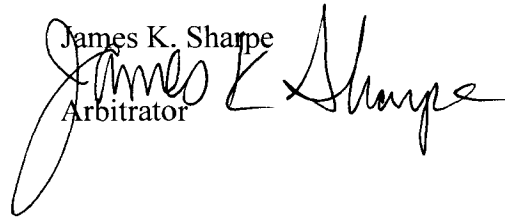
Midcontinent and BEK indicated that they agreed that the issues are appropriately categorized under the six broad issues defined in appendix B. Each of the six issues included in appendix B have a number of subparts which Midcontinent and BEK identified in the February 5, 2008 filing. After the conference, Midcontinent and BEK indicated that they were continuing to negotiate the interconnection agreement and that they anticipated that a number of issues and/or their subparts may be settled prior to the hearing.

IT IS THEREFORE ORDERED that:

1. The procedural schedule set forth in Appendix A shall be adopted and followed during the proceeding.
2. The hearing will consist of BEK, Midcontinent and any other intervening party's testimony and cross-examination on the issues identified in Appendix B.
3. Responses to the information requests shall include the name of the witness responsible for responding to the questions related to the information provided, with copies to all parties of record.

Done at Nicholasville, Kentucky, this 1st day of April, 2008.

James K. Sharpe
Arbitrator

A handwritten signature in black ink, appearing to read "James K. Sharpe", is written over the typed name and title. The signature is stylized and cursive.

APPENDIX A

Procedural Schedule

April 2.....Data Requests Due
April 9.....Data Response Due
April 16.....Prefiled Testimony Due
April 23.....Identify Witnesses and Exhibits
April 30.....Public Hearing
May 19..... Briefs and Final Offers Due
June 12.....Arbitrator’s Recommended Order Due

APPENDIX B

Issues

1. Pricing – BEK and Midcontinent have not agreed on the prices or rates that BEK will charge Midcontinent for providing various services and the use of BEK's facilities.
2. Billing – BEK and Midcontinent have not agreed on the billing terms and conditions that will apply to each company pursuant to this interconnection agreement. This includes areas such as payment due dates, treatment of disputed bills, disconnection or discontinuance conditions, and termination of agreement for non-payment.
3. Intercept messages- BEK and Midcontinent cannot agree on whether BEK will provide an intercept and/or referral message to Midcontinent when customers select other carriers.
4. Directories – BEK and Midcontinent cannot agree on who is responsible for paying the cost associated with distributing directories to Midcontinent customers.
5. Collocation – BEK and Midcontinent have not agreed on the terms and conditions for collocation which includes the provision of physical space for Midcontinent's equipment in BEK's facilities and for the resources necessary for the operation of that equipment such as power, heating, ventilation, and air conditioning.
6. Last Mile Providers – BEK and Midcontinent cannot agree on whether exchange of traffic generated by Last Mile Providers that may not be under the common control of Midcontinent should be addressed in various sections of the interconnection agreement or should be addressed in a separately negotiated agreement.