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March 27, 2008

RECEIVED

MAR 28 2008

North Dakota Public Service Commission
600 E. Boulevard, Dept. 408
Bismarck, ND 58505-0480

PUBLIC SERVICE COMMISSION

RE: *Midcontinent Communications, a South Dakota partnership v. Missouri Valley Communications, Inc.*
Case No. PU-08-61
Our File No. 28-16

Enclosed for filing please find the following original documents and seven copies:

Petition for Scheduling Order and Authorization for Discovery
Brief in Support of Petition and Authorization for Discovery
Attachment #1
Affidavit of Service by Mail

Thank you for your attention to this matter. If you have any questions please call my office.

Sincerely,

John M. Olson
Attorney at Law

JMO/cmb

enclosures
cc: David J. Hogue
Mary Lohnes
J.G. Harrington
Nancy Vogel
William Binek

6 **PU-08-61** Filed: 3/28/2008 Pages: 13
Petition for Scheduling Order & Authorization for Discovery and Brief in Support of Petition & Authorization for Discovery and Motion to take
Midcontinent Communications

John M. Olson, P.C. Lawyer

RECEIVED

MAR 28 2008

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION PUBLIC SERVICE COMMISSION

Case No. PU-08-61

Midcontinent Communications, a)
 South Dakota Partnership,)
)
 Complainant,)
 vs.)
 Missouri Valley Communications, Inc.,)
)
 Respondent.)

**PETITION FOR SCHEDULING
ORDER AND AUTHORIZATION FOR
DISCOVERY**

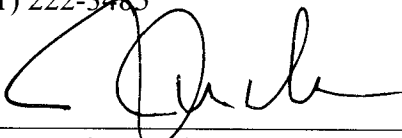
COMES NOW, Complainant, Midcontinent Communications, respectfully requests:

That the Public Service Commission, or its designated hearing officer, adopt a discovery and scheduling order for the above titled case establishing the following:

- A. Authorization of the attached discovery requests, namely, Rule 30 (b)(6) Notice to Take the Deposition of Missouri Valley Communications, Inc., and Interrogatory to Respondent, Set No. 1 with the deposition being scheduled for April 25, 2008;
- B. Deadline for discovery;
- C. Hearing date on Complainant’s Request for Services and Interconnection and Petition to Find Rural Exemption Waived;
- D. Deadline for post hearing briefs;
- E. Deadline for Commission to enter Order; and
- F. Any other action necessary to discharge the duties vested in the hearing officer, including the scheduling of any pre-hearing conferences.

Dated this 27th of March, 2008.

JOHN M. OLSON, P.C.
418 E. Broadway Ave., Suite 9
Bismarck, ND 58501
(701) 222-3485

By: 

John M. Olson ID# 03053
Attorney for: Midcontinent Communications, Inc.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Case No. PU-08-61

Midcontinent Communications, a)	
South Dakota Partnership,)	
)	
Complainant,)	
vs.)	<i>BRIEF IN SUPPORT OF PETITION</i>
)	<i>AND AUTHORIZATION FOR</i>
Missouri Valley Communications, Inc.,)	<i>DISCOVERY</i>
)	
Respondent.)	

COMES NOW, the Complainant, Midcontinent Communications, Inc., and brings forth to the Public Service Commission, or its designated hearing officer, a Petition for Scheduling Order and Authorization for Discovery. The Complainant brings this petition based on the following actions:

1. On February 8, 2008, a Notice of Bona Fide Request for Services and Interconnection and Petition to Find Rural Exemption Waived was filed with the Public Service Commission.
2. After attempts by Midcontinent to arrange earlier dates for discovery, on February 22, 2008, a Rule 30(b)(6) Notice to Take the Deposition of Missouri Valley Communications, Inc., together with Interrogatory to Respondent, Set No. 1, were served on Respondent (See attachment #1).
3. David J. Hogue, attorney for Missouri Valley Communications, Inc., responded to the above requests for discovery by stating in a letter dated March 18, 2008, to

Complainant's counsel, that the deposition had been canceled due to his client being unavailable on the dates initially scheduled, and also alleging that there is no authorization for discovery because a hearing officer has not been appointed, which he states must be authorized before any party has discovery rights or discovery obligations.

4. The Public Service Commission Administrative Rule §69-02-04-07 (1)(l), states that the hearing officer may authorize discovery. The rule does not state that discovery must be authorized by a hearing officer in an adjudicative proceeding before any party has discovery rights or discovery obligations, only that a hearing office may authorize discovery.
5. Further, pursuant to N.D.C.C. §28-32-33 (1), in an adjudicative proceeding, discovery may be obtained in accordance with the North Dakota Rules of Civil Procedure.
6. Notwithstanding, counsel for the Respondent has agreed to the scheduling of the Rule 30 (b)(6) Notice to Take the Deposition of Missouri Valley Communication, Inc. on April 25, 2008, and to the discovery requests served as in attachment #1.
7. That, pursuant to the federal Communications Act, state commissions are required to act on any petition to lift or modify a carrier's rural exemption within a hundred twenty (120) days of the date on which such petition is filed. 47 U.S.C. § 251(f)(1)(B). While Midcontinent recognizes that it may not be possible for the Commission to act within that time period, prompt action is appropriate given the goals of the federal Communications Act to avoid undue delay in addressing rural

exemption issues.

8. That Complainant has need for an expeditious schedule for hearing and disposition in accordance with its petition as weather and other conditions impose a relatively short period of time for proceeding with any interconnection agreement. The Complainant therefore respectfully requests that discovery by the parties be specifically authorized and that a scheduling order be imposed and the following recommended approximate deadlines are suggested to the Commission for such purposes:

- A. Discovery deadline of April 25, 2008;
- B. Hearing date on Complainant's Request for Services and Interconnection and Petition to Find Rural Exemption Waived: week of May 19, 2008;
- C. Deadline for post hearing briefs: week of May 26, 2008;
- D. Deadline for Commission to enter Order: no later than June 30, 2008; and
- E. Any other action necessary to discharge the duties vested in the hearing officer, including the scheduling of any pre-hearing conferences on or before April 15, 2008.

Respectfully submitted this 27th day of March, 2008.

JOHN M. OLSON, P.C.
418 E. Broadway Ave., Suite 9
Bismarck, ND 58501
(701) 222-3485

By: 

John M. Olson ID# 03053

Attorney for: Midcontinent Communications, Inc.

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Case No. PU-08-61

Midcontinent Communications, a)
South Dakota Partnership,)
)
Complainant,)
)
vs.)
)
Missouri Valley Communications, Inc.,)
)
Respondent.)

RULE 30(b)(6) NOTICE TO TAKE THE DEPOSITION OF
MISSOURI VALLEY COMMUNICATIONS, INC.

TO: MISSOURI VALLEY COMMUNICATIONS, INC. and its attorney Mr. David J. Hogue,
Attorney at Law, Pringle & Herigstad, P.C., 2525 Elk Drive, P.O. Box 1000, Minot, ND
58702

PLEASE TAKE NOTICE that the deposition of a representative(s) of Missouri Valley
Communications, Inc. ("MVC") will be taken at the Williams County Courthouse, 205 East
Broadway, Williston, ND 58801, on March 27, 2008 at 10:00 a.m. CST and thereafter until the
same shall be completed.

YOU ARE HEREBY NOTIFIED that Rule 30(b)(6) requires MVC to designate and have
at the deposition one or more of its officers, directors or managing agents (or other employees or
persons who consent to testify for the corporation), and may designate different individuals to
testify for the corporation on the various matters by specifying the matters which each will
testify. Said designated individual(s) shall have knowledge of and testify to the following
matters:

1. The reasons why the request of Midcontinent Communications for a facilities based interconnection agreement with local number portability for the Williston exchange as contained in the letter dated November 14, 2007, and attached as Exhibit A to the NOTICE OF BONA FIDE REQUEST FOR SERVICES AND INTERCONNECTION AND PETITION TO FIND RURAL EXEMPTION WAIVED, filed in this matter, is unduly economically burdensome and/or not technically feasible.

2. The operations of MVC in the Williston, ND exchange including but not limited to the number of lines, broken out by residential and business, and the revenues for telephone services from those lines for 2005, 2006 and 2007 and the number of DSL customers and the revenues from those DSL customers for 2005, 2006 and 2007.

3. The plans, if any, of MVC for the providing of video services to its customers in the Williston, ND exchange.

4. Committed, planned and proposed capital expenditures by MVC affecting the Williston exchange in the next five years, including all expenditures relating to facilities upgrades or replacements for telephone, high speed Internet and video services.

5. MVC's sources of capital for the capital expenditures identified above, including the terms and conditions of any loans or bonds used to support such capital expenditures.

6. MVC's sources of revenue, including universal service funding, access charges, end user telephone charges and revenues from non-regulated services, in the Williston exchange for the last five years and as projected for the next five years.

7. The financial impact for MVC associated with entering into the interconnection agreement identified in numbered paragraph 1 above.

MVC is also hereby required, pursuant to Rule 34. North Dakota Rules of Civil Procedure, to produce at its deposition as scheduled above, the following materials regarding this matter:

1. Audited if available, reviewed if audited not available or Company prepared if audited or reviewed not available, balance sheets and operating statements for the years 2005, 2006 and 2007 for MVC.

2. The following for the year 2005, 2006 and 2007 for both Missouri Valley Communications, Inc. as a whole and for the Williston exchange:

- a. Total access lines
- b. Total residential access lines
- c. Total business access lines
- d. Total long distance customers
- e. Total DSL lines

3. Copies of all analyses performed by, or on behalf of, MVC calculating the financial impact of competitive entry into the local exchange service market by another facilities based carrier serving the Williston 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.

4. Copies of all jurisdictional financial statements or reports prepared for the year 2005, 2006 and 2007 which identify the MVC's assets, liabilities, income and expenses by regulated and non-regulated services and intrastate and interstate jurisdictions, including any reports provided to the Federal Communications Commission or its agents in connection with federal universal service programs and any reports provided to the Federal Communications

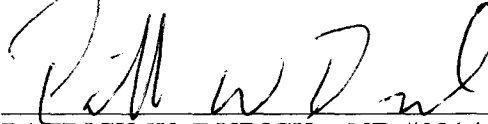
Commission, its agents or the National Exchange Carrier Association in connection with MVC's access charges. To the extent such analyses exist in electronic spreadsheet form such as Microsoft Excel, please provide the requested information in the native software format with all formulas intact.

5. Please provide the company's operating expenses broken down by each income statement expense account within the 2005, 2006 and 2007 annual reports for the Williston 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.

6. Copies of all analyses performed by, or on behalf of, MVC concerning potential entry into the video services market by MVC. 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.

Dated this 22nd day of February, 2008.

PEARCE & DURICK



PATRICK W. DURICK, ND #03141
1314 E. Thayer Avenue
P. O. Box 400
Bismarck, ND 58502-0400
(701) 223-2890

Attorneys for Defendant Midcontinent
Communications

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Case No. PU-08-61

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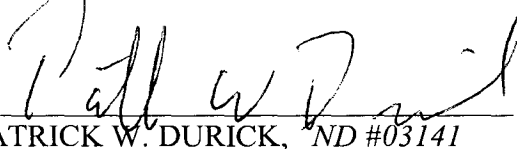
INTERROGATORY TO RESPONDENT, SET NO. 1

PLEASE TAKE NOTICE that pursuant to Rule 33 of the North Dakota Rules of Civil Procedure the undersigned demands answers to the following interrogatory under oath:

INTERROGATORY NO. 1: With respect to each person you expect to call as an expert witness, state the name, address and professional qualification of the expert, the subject matter on which the expert is expected to testify, and the substance of the facts and opinions to which the expert is expected to testify.

Dated this 27th day of February, 2008.

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

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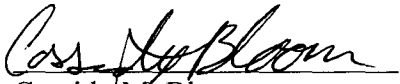
AFFIDAVIT OF SERVICE
BY MAIL

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

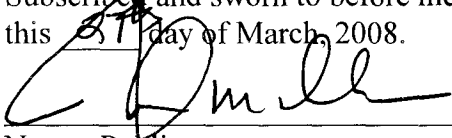
Cassidy M. Bloom, being first duly sworn, deposes and says that she is of legal age and that on the 27th day of March, 2008, she served the attached *Petition for Scheduling Order and Authorization for Discovery; Brief in Support of Petition and Authorization for Discovery; and Attachment #1* in this matter upon the following by placing a true and correct copy thereof in an envelope addressed as follows:

David J. Hogue
Attorney at Law
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702

and depositing the same, with postage prepaid, in the United States mail at Bismarck, North Dakota.


Cassidy M. Bloom

Subscribed and sworn to before me
this 27th day of March, 2008.



Notary Public
Burleigh County, State of North Dakota

