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PUBLIC SERVICE COMMISSION

June 26, 2008

Ms. Illona Jeffcoat-Sacco
North Dakota Public Service Commission
600 E. Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480

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

Enclosed please find one original and eight copies of the following document:

- 1. *Shawn Hanson's written testimony with Exhibits 1 & 2; and***
- 2. *Motion for Immediate Order Compelling Discovery or, in the alternative, Motion to dismiss Petition of Midcontinent Communications, Inc. for removal of rural exemption, with Exhibits 1 & 2.***

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

Very Truly Yours,

David J. Hogue

DJH/klo

Enclosures

cc: Mr. John Olson
Mr. Allen C. Hoberg
Mr. Shawn Hanson

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Midcontinent Communications, a)	
South Dakota Partnership,)	
)	
Complainant,)	
vs.)	Case No: PU-08-61
)	
)	
Missouri Valley Communications, Inc.,)	
)	
Respondent.)	

DIRECT TESTIMONY OF

MR. SHAWN HANSON

On Behalf Of

MISSOUR VALLEY COMMUNICATIONS, INC.

June 26, 2008

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EXHIBITS

Exhibit 1: Analysis of Financial Impact on Missouri Valley

Exhibit 2: Map of Williston Exchange Area

I. BACKGROUND AND QUALIFICATIONS

Q: Please state your name, place of employment and current position.

A: My name is Shawn Hanson, and I am the general manager for Missouri Valley Communications, Inc. ("MVC") and its parent company, Nemont Telephone Cooperative, Inc. ("Nemont"). I am also the general manager of 3 other Nemont subsidiaries which include Sagebrush Cellular, Inc., Project Telephone Company, and Nemont Communications, Inc. (NCI). MVC, Project and Nemont are incumbent local exchange carriers with Project serving exchanges in south central Montana; Nemont serving exchanges in northeast Montana (including the Ambrose and Fortuna exchanges in extreme northwest North Dakota); and MVC serving the Williston exchange in North Dakota. NCI is a subsidiary which offers deregulated services including retail long distance and retail internet service. MVC's headquarters is located in Williston, North Dakota. Nemont's headquarters are located in Scobey, Montana.

Q. Please describe your educational background and qualifications.

A. I hold a Bachelor of Science in Economics from the University of Northern Iowa and a Master of Business Administration from Creighton University in Omaha, Nebraska. My telecommunications industry experience includes 29 years of progressive assignments involving network planning, regulation, industry relations, network operations, special services, information technology, customer service and general management. I spent the first 19 years of my career with Northwestern Bell, which became part of U S WEST, following the AT&T Divestiture of 1984. When I left U S WEST in 1998 I held the position of Regional Vice President for Designed Services and managed a staff of approximately 1200 employees across 11 states. These responsibilities included installation and

1 maintenance for wholesale interconnection services rendered to interexchange carriers,
2 cellular carriers, competitive local exchange carriers (CLECs) and other telecommunications
3 carrier entities.

4 My experience since 1998 includes approximately 6 years of CLEC start up and CLEC
5 management experience including the conversion of CLEC customers from resale platforms
6 to CLEC owned facilities, number porting, and utilization of unbundled network elements.

7 All of this CLEC experience was in the context of competing in exchanges of non rural
8 Regional Bell Operating Companies (RBOCs).

9 Since January 2005, I have served in my present capacity.

10
11 **Q. How do you understand the interconnection rules as they pertain to Midco's request**
12 **for facilities based interconnection and its petition to have MVC's rural exemption**
13 **stripped away?**

14 A. Our attorneys have advised me that in reaching its decision, the PSC will have to consider
15 three important factors. One of these factors is technical feasibility. A second factor is
16 whether or not the facilities based interconnection would cause undue economic harm to
17 MVC. The third factor is whether or not it would materially impact or impair MVC, as the
18 carrier of last resort, in its ability to carry out its Universal Service obligations.

19 Although I present this testimony on behalf of MVC, I am advised that Midco bears the legal
20 burden of proof on these issues.

21
22 **Q: Describe MVC?**

23 A: Missouri Valley is a wholly owned subsidiary of Nemont Telephone Cooperative. MVC is a
24 business corporation created in 2002 to purchase and operate the Williston telephone
25 exchange from Citizens Telephone, which had previously acquired the Williston Exchange

1 from US West. Missouri Valley is a local exchange carrier, commonly abbreviated LEC,
2 that is engaged in the provision of telephone exchange service in the local exchange area
3 of Williston, North Dakota under a certificate of public convenience and necessity issued by
4 the Commission.

5 As a LEC, MVC is also classified as an "incumbent" local exchange carrier, commonly
6 abbreviated ILEC.

7 In addition, MVC is a "rural telephone company" with fewer than 2 percent of the Nation's
8 subscriber lines installed in the aggregate nationwide.

9 Missouri Valley is also an "eligible telecommunications carrier" designated as eligible to
10 receive universal service support.

11
12 **Q: Does MVC receive universal support for service to high cost to serve areas?**

13 A: It receives some, but less than one would expect for a similarly situated rural telephone
14 company.

15
16 **Q: How is that so?**

17 A: The administration of universal service support has changed over the years. There are six
18 universal service high cost program support categories as administered by the Universal
19 Service Administrative Company (USAC) that are applicable for rural ILECs. These include
20 High Cost Loop Support, Interstate Access Support, Interstate Common Line Support,
21 Local Switching Support, Safety Net Additive Support, and Safety Valve Support. Even
22 though MVC is a rural telephone company, it does not qualify to receive support from any of
23 these high cost program categories except for Interstate Common Line Support. This
24 results from the fact that the former owner of the Williston exchange did not historically
25 receive high cost support. This is referred to in the industry as the "parent trap" rule.

1 **Q. Why is the lack of high cost USF important in MVC's case?**

2 A. It's one of the striking and distinguishing characteristics that make MVC's case different
3 than other contested interconnection proceedings that the PSC has recently evaluated. In
4 both the NDTC and BEK cases where Midcontinent sought to remove the rural exemption,
5 the rural telephone ILECs are recipients of multiple categories of high cost support,
6 including High Cost Loop Support. This support is received irrespective of market share
7 loss to a facilities based competitor.

8
9 In fact, it is possible that rural ILECs receiving High Cost Loop Support may even receive
10 more in support following the loss of market share to a facilities based CLEC, as its non
11 traffic sensitive loop costs are spread over fewer loops, thus increasing its cost per loop. In
12 these cases, it would help to assure the PSC that the ILEC will continue to have the
13 financial resources available to continue to meet its Universal Service obligations, and it
14 obviously softens the negative economic impact. But since MVC is subject to the so-called
15 "Parent Trap" Rule, and does not receive universal service high cost support in the manner
16 that other rural ILECs do, it significantly increases the negative financial impact of facilities
17 based interconnection.

18
19 **Q. Has the ND PSC recognized the discriminatory nature of high cost support
20 administration procedures, such as the Parent Trap Rule?**

21 A. Yes. The ND PSC filed comments in response to the FCC's three Notices of Proposed
22 Rulemaking ("NPRMs")_released January 29th, 2008. These NPRMs sought comment
23 regarding fundamental reform of Universal Service. On page 6 of its comments, the
24 NDPSC offered specific critique of the Federal State Joint Board Recommended Decision
25 (RD). The NDPSC stated that "Any reform of the existing high-cost support mechanisms for

1 voice services needs to improve the effectiveness of that support by better targeting the
2 support to areas where costs to deploy and maintain telecommunications services are
3 significantly above the costs for deploying and maintaining comparable services in more
4 urban areas.”

5
6 **Q. Were these comments specific to North Dakota’s rural exchanges?**

7 A. Yes. The PSC’s comments explained that “North Dakota provides a vivid illustration of this
8 inequity. Qwest Communications is the largest ILEC in our state, and it is classified as a
9 non-rural carrier. While it primarily serves urban North Dakota, it also happens to serve one
10 of the most remote and lightly populated exchanges in the state, the Belfield exchange.
11 This exchange includes portions of North Dakota’s ruggedly beautiful badlands. Because of
12 Qwest’s “non-rural” status and the fact they serve some other more urban areas in the
13 state, residents of the Belfield exchange get no benefits of high cost funding.”

14
15 The PSC concludes this critique by stating, “To be clear, we are not advocating that non-
16 rural carriers be unduly supported in lower-cost urban areas but it is hard to understand why
17 the residents of certain high cost exchanges should be put at a disadvantage relative to
18 other North Dakotans, or Americans, solely because their carrier has been defined as “non-
19 rural.””

20
21 The Williston exchange is rural. It was classified as rural in the FCC order approving the
22 MVC acquisition from Citizens; it meets all of the definitions of a rural ILEC; the North
23 Dakota PSC has annually recertified it as a rural ETC; and yet because of its former owner,
24 it is discriminated in the same way that the Belfield exchange is treated inequitably.

1 **Q. Are there other distinguishing factors that make the MVC case different than the**
2 **other recent Midco and rural ILEC interconnection proceedings?**

3 A. Yes. MVC does not offer video services, and has no plans to offer video services. In the
4 other cases, notably NDTC and BEK, the ILECs had video business plans. My
5 understanding of the federal Act is that the offering of video services results in an automatic
6 loss of the rural exemption. Thus, the Commission had no need to analyze whether the
7 proposed interconnection is unduly economically burdensome to the rural telephone
8 company.

9
10 **Q: Please describe the Williston exchange area and Missouri Valley's services in the**
11 **area.**

12 A: As an ILEC and ETC, Missouri Valley provides the 9 services/functionalities designated in
13 FCC rules (Federal Code 54.101). These include (1) voice grade access to the public
14 switched network; (2) flat rated local service pricing where the incremental cost of local
15 usage to the customer is free; (3) dual tone multi-frequency (DTMF) signaling, commonly
16 referred to as touch tone to support efficient call set up; (4) single party service; (5) access
17 to emergency services through compliance with E911 requirements; (6) access to operator
18 services; (7) 1 plus equal access to interexchange carriers; (8) access to directory
19 assistance through the dialing of 411; and (9) toll limitation for qualifying low-income
20 consumers and the offering of lifeline service. MVC complies with the requirement to
21 advertise the availability and charges for these 9 services. Furthermore, MVC complies
22 with the requirement to provide the supported services throughout the designated service
23 area of the entire Williston exchange to all customers making a reasonable request for
24 service, including low income, low density, rural insular, and high cost customers in a

1 manner that is reasonably comparable and at rates equivalent to those charged in the
2 municipality of Williston

3
4 **Q. Describe Missouri Valley's size in terms of access lines, route miles, and territory.**

5 A. When Missouri Valley acquired the Williston exchange in 2003, it included approximately
6 9400 (POTS) access lines. In April, 2008, there are 8806 access lines in the Williston
7 exchange, including 1575 lines resold to Midcontinent and 7231 served by Missouri Valley.

8
9 The Williston exchange area is 390.6 square miles, including approximately 7.3 square
10 miles that comprise the City of Williston. As of April, 2008, Missouri Valley serves the 8806
11 access lines in the area over a network of 933.3 network route miles of telecommunications
12 cable, of which 477 miles are in the City of Williston and 456.3 miles serve the rural portion
13 of the exchange beyond the city limits. Of the 8806 access lines, approximately 7065 are
14 inside the Williston City limits, including the lines that are resold to Midcontinent. 1741 lines
15 are served by MVC that are outside of the Williston city limits.

16
17 **Q: Can you explain the decrease in the number of access lines from 2002 to 2008?**

18 A: Yes. We have experienced a marked decline in the number of second lines at residence
19 service locations. This commonly occurs as customers who used second lines for dial-up
20 internet service convert to MVC provided DSL service which enables the primary line to
21 simultaneously access both the internet and the telephone network. Similarly, some
22 consumers who used second lines for dial-up internet service would terminate their second
23 lines as they have opted for internet service over Midcontinent's cable TV network. In
24 addition to MVC and Midco, there are other companies providing wireless and satellite
25 internet access alternatives for which second lines may have been disconnected. The

1 declining number of second lines is the primary reason for the decline in access line count.

2 There could be another phenomenon, with some consumers deciding to rely solely on
3 wireless telephone service.

4
5 **Q: I'm showing you a document marked for identification as Exhibit 2, and ask if you can
6 identify it?**

7 A: Yes. It is a map showing the Williston exchange area, the Williston city limits and Missouri
8 Valley's facilities in the area. Because of the scale of the map and the relative density of
9 access lines in Williston, the details of location of lines in Williston are not shown.

10
11 **Q: Was this map prepared by you or under your supervision?**

12 A: Under my supervision, our engineering department prepared this map from our internal
13 records and from review of public documents.

14
15 **Q: Does Missouri Valley offer cable TV or any video programming services?**

16 A: No.

17
18 **Q: Does Missouri Valley have any plans to provide video services in Williston?**

19 A: No.

20
21 **Q: Has Missouri Valley or any of its related party affiliates ever considered providing
22 video services in Williston?**

23 A: Yes.

1 **Q: Did those considerations include the completion of any analyses concerning entry**
2 **into the video services business?**

3 A: Yes.
4

5 **Q: What was the outcome of those considerations and analyses?**

6 A: We concluded it would not be economically feasible to offer video services in Williston.
7 There are already 3 powerful and very large video providers serving Williston. They include
8 Midco, Echostar (Dish Networks), and DirecTV. Echostar and DirecTV each serve millions
9 of customers. Midco is a partnership between Midcontinent Media and Comcast (largest
10 video provider in the United States). One of the most significant operating expenses in the
11 video business is content. Due to our small scale, our analysis concluded that we could not
12 obtain quality video content at the same economic cost as these huge companies. In
13 addition, our legacy telephone network is not currently capable of delivering the bandwidth
14 required to deliver video to the subscriber premise. The costs of upgrading the network to
15 support video distribution in a rural market that already has 3 powerful video incumbents
16 combined with lack of competitive content procurement costs defeated the business case
17 for rolling out video over our own network.
18

19 **Q. Will your network ever be capable of delivering video?**

20 A. Perhaps within 5 to 10 years, it might be technically feasible for our network to deliver video,
21 but this is highly dependent on a number of technical and financial variables. First, it would
22 depend on the PSC's decision in this proceeding, because a decision that requires facilities
23 based interconnection with collocation and unbundled network elements would cause a
24 significant negative impact on MVC's financial condition and that would curtail our ability to
25 continue investing in the network at our current rate. Second, assuming a continuation of

1 current trends, the technology selected for upgrading the network would have to be capable
2 of meeting the bandwidth throughput requirements of delivering multiple high definition
3 video signals to each consumer premise. Even with the new MPEG 4 compression
4 standard, the delivery of 3 simultaneous IP (Internet Protocol) high definition video streams
5 would consume 27 Mbps (9 Mbps per high definition video stream) of bandwidth, and that
6 does not include additional bandwidth that might be required for a broadband internet
7 connection and other applications. In addition, even if the network becomes technically
8 capable of delivering video in 5 to 10 years, that will not address the formidable hurdle of
9 acquiring content at a comparable cost structure with Midco, Dish and DirecTV.
10

11 **Q: Are you familiar with Midcontinent's request for interconnection with Missouri Valley**
12 **that is referred to in the notice of this hearing, a request made in November of 2007?**

13 A: Yes.

14
15 **Q: Do you regard the request as a bona fide request, that is, made in good faith?**

16 A: Yes, but it obviously presumed MVC waived our right to assert the rural exemption.
17

18 **Q: Is Missouri Valley willing to negotiate with Midcontinent, in good faith, the particular**
19 **terms and conditions of an interconnection?**

20 A: Not unless the PSC terminates our rural exemption.
21

22 **Q: Please explain.**

23 A: We understand Missouri Valley, as an ILEC, is subject to obligations to negotiate in good
24 faith and to establish interconnections with a requesting CLEC, such as Midcontinent, but
25 as a rural telephone company, Missouri Valley is exempt from those obligations unless the

1 Commission were to terminate the exemption. So, because we are exempt we are not now
2 willing to negotiate. If the Commission were to terminate Missouri Valley's exemption, then
3 we would negotiate in good faith.
4

5 **II. PURPOSE OF TESTIMONY**

6

7 **Q: What is the purpose of your testimony?**

8 A: The purpose of my testimony is to rebut Midcontinent's arguments that Missouri Valley's
9 exemption from interconnection requirements should be terminated.
10

11 **Q: In summary, what are the rebuttal arguments?**

12 A: The first argument is that undue economic burdens would be imposed on Missouri Valley if
13 it were required to interconnect with Midcontinent. As I understand the
14 Telecommunications Act, incumbent local exchanges such as Missouri Valley are required
15 to interconnect their facilities with competitive local exchanges such as Midcontinent, if
16 requested, and to negotiate in good faith the terms of interconnections, but an ILEC that is
17 a rural telephone company is exempt from those obligations. I am advised that the
18 exemption is not absolute, and can be terminated if the requesting CLEC can prove by a
19 preponderance of evidence that interconnection would not be unduly economically
20 burdensome to the rural company. My testimony presents information to show how the
21 interconnection would impose significant economic burdens on Missouri Valley.
22

23 The second argument is separate from but related to the first. As I understand the Act, the
24 rural exemption from interconnection should not be terminated if that is not consistent with
25 universal service provisions of the Act. My testimony shows how the economic burdens of

1 interconnection would have an adverse impact on universal service. It's important to note
2 the PSC will deliberate on this while the industry is at a dynamic point in time when
3 universal service is literally being redefined to move beyond POTS to include broadband
4 high speed access to the internet, and fundamental reforms are being considered and
5 implemented by state and federal regulators to limit, control and direct USF support dollars
6 to ETCs. Since the definition of universal service is undergoing such fundamental revision,
7 it strikes me that we do not know the full extent of universal service obligations that ILECs
8 (as ETCs) will be required to comply with as carriers of last resort. It is safe to say,
9 however, that the new expanded definition of universal service will include broadband
10 Internet access and this will require that the ILEC have reliable, predictable, and sufficient
11 financial resources to upgrade its network for compliance with this expanded and redefined
12 definition of universal service.

13
14 **Q: In summary, how do you show undue economic burdens that interconnection would**
15 **impose on Missouri Valley?**

16 **A:** We show the economic burdens by using historical data to forecast Missouri Valley's
17 revenues in 2009 and future years, and comparing the revenues it would realize if Midco
18 were not interconnected with substantially lower revenues MVC would experience if
19 interconnection were to be ordered.

20
21 **Q: Based on your experience in the telephone industry and as a manager of Missouri**
22 **Valley, and with knowledge of Missouri Valley's operations, do you have an opinion**
23 **whether Midcontinent's becoming a facilities based CLEC in Williston,**
24 **interconnected with Missouri Valley, would be unduly economically burdensome?**

25 **A:** Yes

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Q: What is your opinion?

A: For Midcontinent to become interconnected with Missouri Valley as proposed by Midcontinent would impose undue economic burdens on Missouri Valley.

Q: What are the reasons why a facilities based interconnection between Midcontinent and Missouri Valley is unduly economically burdensome?

A: A facilities based interconnection would cause substantial negative financial impacts on Missouri Valley.

Q: What kind of financial impact?

A: Substantial losses of revenue without corresponding reduction in costs.

Q: How would a change in relationships between Midcontinent and Missouri Valley cause Missouri Valley to lose revenues?

A: Presently Midcontinent is a reseller in the Williston exchange. It buys lines from Missouri Valley at wholesale rates (retail rates discounted by 16.15%) and resells those lines to Midcontinent's customers at retail rates established by Midcontinent. If Midcontinent were a facilities based local exchange carrier in the Williston exchange area, it would no longer buy lines from Missouri Valley to serve Midcontinent's customers. Missouri Valley would lose that wholesale revenue if Midcontinent were a facilities based CLEC in Williston. Also, with Midcontinent operating as a reseller CLEC, Missouri Valley collects switched access revenues from long distance carriers who provide long distance service to all consumers in Williston, including the consumers who are Midcontinent's local service customers. If Midcontinent were to be a facilities based CLEC in Williston, Missouri Valley would lose the

1 long distance intrastate access revenues associated with Midcontinent's local customers.
2 With interstate switched access, MVC would remit less revenue to the NECA pool and this
3 would impact the pool's ability (including other North Dakota based ILECs that participate in
4 the pool) to earn at the FCC's approved authorized rate of return without NECA having to
5 establish higher interstate switched access rates.
6

7 **Q: Does this represent a compounding impact?**

8 A: Yes. Midcontinent has a record of increasing its market share in Williston as a reseller,
9 about 17% annually on a combined business and residence basis. Assuming Midcontinent
10 continues to increase its market share as a reseller at that rate, Missouri Valley's revenues
11 would decline slightly but remain basically stable while Midco gains in market share. But if
12 Midco were to convert from a reseller to a facilities based CLEC and migrate its resale
13 customers to Midco's facilities, that would have a substantial negative effect on MVC's
14 revenues, and the effect would grow as Midcontinent's market share grows.
15

16 **Q: Would interconnection affect Missouri Valley's revenues from inter-state access?**

17 A: As mentioned previously, MVC would obviously remit less revenue to the NECA pool, for
18 interstate switched access, but since MVC represents such a small portion of the
19 nationwide NECA pool, we have not assumed an impact within the 4 years illustrated in the
20 impact statement. At the macro level, however as there are declining switched access
21 revenues remitted to the NECA pool, this jeopardizes the pool's ability to earn at the FCC's
22 authorized rate of return without price increases. Additionally, with the aggregate negative
23 impact on MVC, our ability to invest at the present rate will be severely curtailed, and this
24 would eventually result in a declining rate base that would reduce our cost recovery from
25 the pool. We did not model this as part of our impact analysis.
26

1 **Q: Please explain further.**

2 A: Under the present system, access charges paid by IXCs for use of a rural ILEC's facilities to
3 originate and terminate long distance inter-exchange inter-state calling are not directly
4 accounted for as the rural company's revenues. Instead, the IXCs' payments are paid into
5 the NECA pool and distributed by NECA among all local exchange companies participating
6 in the pool. For purposes of those distributions, traffic factors are frozen at 2000 levels.
7 For purposes of those distributions, local companies' expenses allocated to the interstate
8 service are reimbursed and a fixed rate of return on investment allocated to the interstate
9 service is also paid. Under the existing rules, Missouri Valley's inter-state access revenues
10 from NECA could decrease if the rate base decreases, and we do see that as a real risk
11 due to the financial impacts of interconnection.

12
13 **Q: How might that happen?**

14 A: Missouri Valley's continuing investments in the Williston exchange area are expected to be
15 financed by Missouri Valley's revenues and retained earnings. If revenues and retained
16 earnings are reduced, our capacity to continue investments will be impaired and
17 consequently our access revenues from NECA will be reduced if our investments are
18 reduced. And, that will be a compounding effect, compounding the decline in revenues and
19 the decline in Missouri Valley's capacity to continue to invest in facilities to serve the entire
20 exchange area.

21
22 **Q: Moving on to the second cause, if Midcontinent were to persuade some of Missouri**
23 **Valley's present business customers to become special access customers of**
24 **Midcontinent, how would that cause Missouri Valley to lose revenues?**

1 A: Those losses would be in addition to the losses caused by Midcontinent converting from a
2 residence and business POTS reseller to a facilities based CLEC and migrating its resale
3 customers to Midcontinent's facilities. Presently, Missouri Valley offers special access
4 services to businesses in the Williston area and as Midco wins business customer voice
5 POTS service it would most likely win some special access circuit business.. If
6 Midcontinent were to persuade some of Missouri Valley's present business customers to
7 become voice and special access customers of Midcontinent, that would cause Missouri
8 Valley to lose additional revenues.

10 II. FINANCIAL ANALYSIS

12 **Q: I'm showing you a document marked for identification as Exhibit 1 and ask if you can
13 identify it.**

14 A: Yes, this is a spreadsheet we created to illustrate our analysis of the financial impact on
15 Missouri Valley that would result from interconnection with Midcontinent.

17 **Q: Did you personally participate in the analysis?**

18 A: Yes.

20 **Q: Generally, what financial impact does the analysis show?**

21 A: If Missouri Valley were to interconnect with Midcontinent as a facilities based CLEC as
22 Midcontinent requested, that would have a negative impact on Missouri Valley's net margin,
23 beginning at \$652,700 for 2009 and escalating annually, up to \$1,194,100 in 4 years, in
24 2012.

1 In percentage terms, that is a loss of approximately 31% in 2009 and nearly 56% of net
2 margin in 2012.

3
4 **Q: What was the method of the analysis?**

5 A: Generally, the method was to use known historical facts projected into the future, the years
6 2009 through 2012. Assumed facts in the projections are based on historical facts.

7
8 **Q: Please describe the process of the analysis.**

9 A: We used 2007 and prior years' financial and statistical data, to project through 2008 and on
10 to 2009 as a presumed first year in which Midcontinent might be interconnected with
11 Missouri Valley if the rural exemption were terminated. The statistical data is Midcontinent's
12 record of increasing market share, stated in terms of percentages of annual growth in
13 customers, an assumed constant rate whether or not interconnection were implemented.
14 The rates of annual growth are separately stated for residential lines and business lines.
15 The revenue data is Missouri Valley's 2007 data projected into 2009 and beyond, with no
16 change in rates.

17
18 The first part of the analysis, titled "Resale Model" shows the expected total revenue and
19 net operating margin assuming Midcontinent continues as a reseller in Williston, without
20 interconnection.

21
22 The second part of the analysis, titled "Interconnect Model" shows the Missouri Valley's
23 projected total revenue and net operating margins during the years 2009 through 2012,
24 assuming Midcontinent changes its status as a reseller to a facilities based CLEC in
25 Williston, with each company having the same market share of customers as in the Resale
26 Model and with Missouri Valley losing some special access revenues to Midcontinent.

1
2 The interconnect model shows that for Missouri Valley to interconnect with Midcontinent as
3 a facilities based CLEC as Midcontinent requested, that would have a negative impact on
4 Missouri Valley's net revenue, beginning at \$652,700 for 2009 and escalating annually, up
5 to \$1,194,100 in 4 years, in 2012. In percentage terms, that is a loss of approximately 31%
6 in 2009 and nearly 56% in 2012.

7
8 In both models, Midcontinent would continue to take market share from Missouri at the
9 same rate as in the past. The rates of annual growth are separately stated for residential
10 and business lines. In the Interconnect Model, Midcontinent would also begin to take
11 special access/private line market share from Missouri Valley. For the purpose of that part
12 of the projection, we have presumed that Midcontinent would have a modest initial
13 penetration in the special access market, and its growth would be 8%, about half of the
14 growth rate in the sale of switched access lines. In order to compare apples to apples, we
15 computed a private line circuits conversion ratio to voice grade equivalents. Under the
16 formula, we project Midcontinent's special access gains in market share as equivalent to
17 988 voice grade access lines, in the first year.

18
19 In both models, we have averaged the projections for each year. So, even though we
20 project Midcontinent's residential access lines would grow from 1659 in 2008 to 1908 in
21 2009, the revenue impact is calculated as if the 300 change occurred uniformly during
22 2009.

23
24 **Q: Is this financial impact statement, exhibit 1, the same as the impact statement you**
25 **delivered to Midco in pre-hearing discovery procedures exhibit 3?**

26 **A. No.**

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Q. Did you consider making any changes to MVC's financial impact statement after your testimony at a deposition?

A. Yes.

Q. What changes did you consider?

A. Our financial impact analysis/statement that we delivered at the deposition considered all consumers as a single group, without distinguishing between residential and business customers. Midco's attorney helped me understand that our financial impact statement might understate MVC's loss of revenues as our business customers take service from Midco.

Q. What was the result of those considerations?

A. We concluded that our losses would be materially greater than originally estimated. Exhibit 1 shows the greater impact from loss of business customers as inspired by my deposition.

Q: What was Missouri Valley's gross and net income for 2007, the year from which data was used for the financial impact Exhibit 1?

A: During the last complete fiscal year, 2007, Missouri Valley's total revenues were \$6,290,774. Our net income was a negative number, \$-29,181.

Q: Are there any unusual circumstances about Missouri Valley's operations or the Williston exchange area that explain why Missouri Valley had a net loss?

A: Yes, and no. Missouri Valley's 2007 financial statements show operating costs that totaled \$4,343,994, and Missouri Valley's expenses also include interest and amortization

1 expenses related to acquisition of the exchange. Changes of ownership of exchanges are
2 not unusual in North Dakota in the last several years, but those transactions have financial
3 costs not directly related to the operation of an exchange. These financial costs include
4 amortization of so-called acquisition adjustment, interest on debt to finance the acquisition,
5 and income taxes. When financial costs are excluded and only costs of operation are
6 considered, Missouri Valley's net income for 2007 was \$1,946,786.

7
8 In constructing the financial impact exhibit, we considered only operating expenses, not any
9 of the financial expenses.

10
11 **Q: If there are losses in revenues under the interconnect model, will there also be**
12 **reductions in operating expenses?**

13 A: We do not expect material decreases in expenses.

14
15 **Q: Why not?**

16 A: In the telecommunications business, there are high fixed costs that do not change as the
17 number of customers change. For example, if Midcontinent were to gain 50% of Missouri
18 Valley's telephone customers in Williston, Missouri Valley and its remaining customers
19 would have the burden to pay 100% of Missouri Valley's fixed costs.

20
21 **Q: Are there any variable costs or expenses that might not be incurred by Missouri**
22 **Valley as a consequence of losing customers?**

23 A: Not any that would be of material consequence.

24
25 **Q: Please explain.**

1 A: No billing, collecting or marketing costs would be saved regarding Midcontinent's present
2 resale customers because those costs are already factored into the wholesale rate discount
3 that Midcontinent pays to Missouri Valley for those customers. Similarly, if interconnection
4 is not ordered and Midcontinent continues as a reseller in Williston, Missouri Valley's future
5 revenues will include wholesale revenues at the discounted rate that offsets that category of
6 expenses.

7
8 All that is reflected in our impact statement, exhibit 1. For example, in the year 2010 we
9 anticipate \$656,500 of wholesale revenue, about \$111,900 more than wholesale revenue in
10 2009. But that apparent gain represents a net loss of retail revenue of about \$21,500 at a
11 resale discount of 16.15% (I'm rounding here).

12
13 **Q: Are there any costs that might be saved as revenues and numbers of customers are**
14 **reduced?**

15 A: We considered this question in our analysis and concluded there would be no material
16 reductions in costs, because costs do not vary in any measurable predictable way as a
17 function of revenues. Some costs are described as "embedded," such as depreciation, but
18 many other operating costs are just as resistant to variance as a function of revenues. In a
19 small rural telephone company like MVC, we have a small staff of office and technical
20 personnel who would remain to service a declining number of customers, and to maintain
21 equipment that remains to be maintained regardless of declining numbers of customers.
22 Those costs remain even if revenue declines or if numbers of customers decline. If
23 interconnection is ordered, Missouri Valley's present and future revenues would be reduced
24 without a material reduction in operating costs.

1 **Q: Are there any costs that might be trimmed or reduced as management decisions in**
2 **circumstances of declining revenues?**

3 A: Not that we can anticipate. We are constantly pursuing opportunities to increase efficiency,
4 but we cannot predict any material reduction in costs. And we would not arbitrarily cut costs
5 that would reduce the quality of service to Missouri Valley's customers.

6

7 **Q: Are there any revenue gains to Missouri Valley that would result from interconnection**
8 **with Midcontinent, gains that would offset some of the revenue losses you have**
9 **mentioned?**

10 A: Potentially with a reciprocal compensation arrangement, but our experience suggests this
11 will be quite small.

12

13 **Q: Please explain.**

14 A: Interconnected local exchange carriers are legally obligated to negotiate and implement
15 reciprocal compensation arrangements, to compensate one another for the use of each
16 other's facilities to transport and terminate calling among their respective customers.
17 Theoretically, Midcontinent might owe more to Missouri Valley for Midcontinent's use of
18 Missouri Valley's facilities than Missouri Valley owes to Midcontinent for Missouri Valley's
19 use of Midcontinent's facilities. We have not put together a traffic study to measure and
20 estimate the balance of the exchange of traffic that would occur between the two networks
21 and we don't know what rate per minute we would negotiate to.

22

23 **Q: Did you receive any similar impact statement from Midcontinent?**

24 A: As of the time we are submitting this written testimony, we have not received any similar
25 impact statement from Midcontinent. In their answers to our interrogatories where we

1 requested their analysis of the financial impact of interconnection, they said information was
2 not known at this time, i.e. as of the date of their answer, May 8, 2008.

3
4 I find that difficult to believe, but that was their answer, so they haven't provided any
5 financial impact statement to be compared to ours. Given that we believe Midco has the
6 burden of proof to show that their request for interconnection does not cause undue
7 economic harm, it's a challenge to comprehend that this would not have been a priority.
8 They did have a financial impact analysis in the NDTC case, so we were able to compare
9 our exhibit 1 with the analysis used by Midcontinent in that case.

10
11 **Q: What was the result of that comparison?**

12 A: Our exhibit 1 in this case used the same basic approach as Midcontinent used in the NDTC
13 case. That is, our approach is a before and after comparison, to compare the rural
14 telephone company's financial experience under present conditions, and then analyzing the
15 financial impact on the rural company if conditions were changed as requested by
16 Midcontinent. The format of our exhibit 1 is not the same as that used by Midcontinent in
17 the NDTC case, but the approach is basically the same before and after comparison.

18
19 **Q: Can you identify particular parts of Midcontinent's evidence in the NDTC case that
20 you are referring to.**

21 A: Yes. Dr. Fischer's written testimony at pages 6 through 20, including tables presented in
22 the transcript.

23
24 **Q: Is there anything else in Dr. Fischer's testimony that bears on the present case.**

1 A: It was curious to note that his analysis was based on information about NDTC that NDTC
2 provided to Midcontinent. We presented information to Midcontinent that they requested,
3 and we presented that weeks before Midcontinent made its statement that it did not have
4 information to analyze the financial impact of an interconnection between Midcontinent and
5 Missouri Valley. I can't imagine why Midcontinent has not yet performed or produced their
6 analysis of the financial impact of an interconnection between Midcontinent and Missouri
7 Valley.

8
9 **Q: Why is a loss of revenues such as is shown on Exhibit 1 unduly economically**
10 **burdensome?**

11 A: A loss of revenues of the amounts or percentages we anticipate would be caused by
12 interconnection is an economic burden, particularly where substantial costs remain
13 unchanged. We hope the Public Service Commission will decide this is an undue burden.

14
15 **Q: What is it about Midcontinent's interconnection with Missouri Valley as a facilities**
16 **based CLEC that is unduly economically burdensome, as compared to the present**
17 **reseller situation.**

18 A: The differences are substantially reduced revenues and unchanged operating costs.

19
20 **Q: What does it mean to be "unduly economically burdensome?"**

21 A: There is no doubt it is economically burdensome on a rural ILEC to provide interconnection
22 to a CLEC, because of the loss of gross and net revenues. It seems to me the key word is
23 "unduly". I believe our opinion that the economic burden caused by interconnection is
24 supported by Midcontinent's testimony in an earlier case before the Commission.

1 **Q: Please explain.**

2 A: The case I am referring to is Midcontinent's case against North Dakota Telephone
3 Company, Case No. PU-05-451. In that case, Dr. Fischer testified that facilities based
4 CLEC's interconnection with an ILEC "translates into a real loss of market share and
5 profitability for the incumbent LEC if the CLEC can retain the customer." This statement
6 appears on page 5 of his testimony in that case.

7
8 Also, I am aware of Midcontinent's witness Mr. Gates' testimony about the meaning of the
9 term "unduly economically burdensome" in the NDTC case. I'm referring to page 9 of his
10 testimony in that case. Mr. Gates' opinion is that unduly economically burdensome means
11 damage to a rural telephone company's ability to operate efficiently or to continue to offer
12 services.

13
14 In effect, he is saying an economic burden is undue only if competition between Missouri
15 Valley and Midcontinent were to result with Missouri Valley being driven out of business. It
16 is not the goal of the new pro-competitive policy of the 1996 Act to create opportunities for
17 CLECs to drive ILECs out of business. Even if that might be an acceptable risk in some
18 markets, rural telephone companies are exempt from that burden. To my mind, an
19 economic burden does not need to be so extreme as to threaten a rural company's
20 economic survival for the Commission to conclude the burden an undue burden. To my
21 mind, an annual net income loss of 31% compounding up to 56% and maybe beyond is an
22 undue economic burden to be imposed on a rural telephone company.

23

1 **Q: Using Mr. Gates' definition of the term, "unduly economically burdensome," would**
2 **the losses of revenue you anticipate damage Missouri Valley's ability to operate**
3 **efficiently or to continue to offer services?**

4 A: That includes two questions. The losses of revenue we anticipate would damage Missouri
5 Valley's ability to operate efficiently, because costs would remain *unchanged* while
6 revenues decrease, *so our costs per customer or as a percent of revenue would*
7 *increase*. The loss of revenue would not damage Missouri Valley's ability to continue to
8 offer service in the near future, but our efficiency in offering those services would be
9 damaged, again because of costs *that do not change as to total amounts but increase*
10 *on any per unit basis*. Missouri Valley's ability to invest in new facilities would be
11 immediately curtailed and damaged. That is an undue burden, especially at a time when
12 the definition of universal service is expanding and MVC is obligated to serve the entire
13 exchange, of which the municipality of Williston is just a small geographic piece.

14

15 **VI. CAPITAL EXPENDITURES**

16

17 **Q: Does Missouri Valley have capital expenditures for facilities upgrades or**
18 **replacements planned for the years 2008 through 2012?**

19 A: Yes.

20

21 **Q: Generally, what kinds of capital expenditures are planned?**

22 A: We provided our specific MVC capital expense budget for 2008 in depositions and believe it
23 is consistent with our view of the expanded definition of universal service. The budget
24 includes a project that will improve telephone service and have the benefit of enhancing our
25 ability to offer higher speed internet service using DSL technology. We refer to this as the

1 West Ring Project and it is specifically focused on the west half of Williston. It involves the
2 placement of fiber fed digital loop carriers (DLCs) in a ring configuration that will shorten
3 copper loop lengths. The budget for this project is approximately \$1.5 million. The
4 remainder of the budget is approximately \$500,000 and includes expenditures to keep our
5 switch current; to extend facilities to new developments; to replace an aging technician
6 vehicle and backhoe; and to purchase new test gear for our technicians.

7
8 For the years 2009 – 2012, we had planned to keep our capital budget at approximately the
9 same \$2 million annual level. It's crucial to point out that since we finance the MVC capital
10 plan out of net revenues and retained earnings that the capital plans would have to be
11 severely cut back. If we prevail in retaining our rural exemption we would complete the
12 West Ring Project with customer conversion in 2009, and begin work on its mirror image,
13 called the East Ring Project, in the balance of 2009 and 2010.

14 Our plans beyond 2009 have basically been put on hold by the magnitude of the impact
15 that this interconnection request would have on MVC. In that respect it is already beginning
16 to have the detrimental impact of reliability, sufficiency, and adequacy of allowing us to plan
17 for meeting our universal service compliance obligations.

18
19 **Q: What would be the source of funds for capital expenditures?**

20 **A:** Missouri Valley's net revenues and retained earnings. We do not anticipate any upstream
21 dividends to Nemont in the foreseeable future. Our long range plan is Missouri Valley's
22 cash flow and earnings will be reinvested in the Williston exchange.
23
24

1 **Q: Would any of Missouri Valley's planned capital expenditures for facilities upgrades or**
2 **replacements be affected by interconnection with Midcontinent?**

3 A: Yes

4
5 **Q: What would be the effect?**

6 A: Interconnection with Midcontinent would cause a loss of revenues to support facilities
7 upgrades and replacements. We think that is an undue economic burden.

8
9 **Q: Will competition by Midcontinent operating as a facilities based CLEC cause**
10 **Missouri Valley to change its planned expenditures for facilities upgrades or**
11 **replacements?**

12 A: **Yes.** We intend to make these facilities upgrades and replacements as part of our
13 commitment to service in the entire Williston exchange area, but accomplishing these goals
14 depends on having sufficient earnings to reinvest in the exchange. As stated,
15 interconnection with Midcontinent would cause a substantial loss of revenues to support
16 facilities upgrades and replacements. We are committed to make these facilities upgrades
17 and replacements as part of our commitment to service in the entire Williston exchange
18 area, but if revenues are reduced we would be compelled to delay the implementation of
19 our program of service improvements. In the worst case scenario, the loss of revenues
20 would be so extreme that we would not have sufficient resources for facilities upgrades and
21 replacements. We think that is an undue economic burden.

22
23 **Q: In the implementation of interconnection, if that were ordered, does number**
24 **portability present any economic burdens?**

1 A: Yes and no. We consider number portability more as a matter of technical feasibility than
2 of economic burdens on Missouri Valley.

3
4 **Q: Moving on to technical feasibility, including number portability. Is interconnection
5 between the facilities of Midcontinent and Missouri Valley, including number
6 portability, technically feasible?**

7 A: I can't say no, but I can't say yes without qualification or exception.

8
9 **Q: What qualifications or exceptions?**

10 A: Interconnection is not a simple matter of putting a few plugs into a few sockets. There are
11 complicated technical issues to be addressed. Midcontinent's and Missouri Valley's
12 technical people would need to meet and confer to determine compatibility of the two
13 companies' networks and how to make the network elements compatible. I can't say
14 interconnection is not technically feasible, but there are implementation issues that would
15 need to be addressed, including the costs of implementation.

16
17 **Q: Are you saying that interconnection might prove to be impossible?**

18 A: No, I am not saying interconnection is impossible.

19
20 **Q: Are you saying interconnection is not economically feasible because of technical
21 issues?**

22 A: No. I am saying there are costs associated with implementing interconnection.

23
24 **Q: What kind of costs?**

1 A: The following list represents areas where we currently believe we will incur additional costs
2 to implement facilities based interconnection:

- 3
- 4 - Technical design (engineering of the network element interfaces)
- 5 - CO building modifications and design of collocated space
- 6 - Installation and testing of network interfaces
- 7 - Modification to Plant Records system to establish inventory and tracking of
- 8 unbundled network elements
- 9 - Modification to Billing system to establish billing of unbundled network elements and
- 10 collocation
- 11 - Establishment of service delivery and provisioning processes for unbundled network
- 12 elements
- 13 - Facilitating 24*7 building access and security
- 14 - Establishment of trouble reporting procedures and joint trouble shooting processes
- 15

16 **Q: How much time would be required to resolve technical issues?**

17 A: I don't think interconnection should be ordered, because of the rural exemption. So we are
18 not currently devoting any time to plan for interconnection. If interconnection is ordered,
19 we think technical issues and an implementation plan could be agreed upon and
20 documented and implementation could begin within 90 days, based on previous cases
21 decided by the Public Service Commission.

22

23 **Q: What cases?**

24 A: The one that comes to mind is Midcontinent's case with North Dakota Telephone Company.
25

1 **Q: Have you considered whether Missouri Valley's interconnection with Midcontinent**
2 **would be consistent with universal service?**

3 A: Yes.

4
5 **Q: What is your opinion about that?**

6 A: Interconnection would substantially impair Missouri Valley's performance of its universal
7 service obligations.

8
9 **Q: Please explain.**

10 A: Missouri Valley is a rural telephone company, but due to the Parent Trap Rule described
11 earlier, Missouri Valley does not receive universal service support that is available to some
12 rural telephone companies to offset the high costs of service in rural areas. As I have
13 already testified, Missouri Valley's annual net margins would be reduced as a consequence
14 of interconnection, and the losses are substantial, not only in dollar terms but also in
15 percentage terms, 31% annually and compounding up to 56% in the four year study period.
16 But Missouri Valley's universal service obligations and the expenses and capital
17 requirements to perform those obligations would be unchanged. For Missouri Valley to lose
18 such substantial proportions of its revenues as a consequence of interconnection with
19 Midcontinent would impair Missouri Valley's ability to perform its universal service
20 obligations.

21
22 **Q: Why does Missouri Valley not qualify for universal service support in the same**
23 **manner as other rural telephone companies?**

24 A: The Williston exchange was formerly owned by US West and did not qualify for universal
25 service support before 1996. Under the 1996 Telecommunications Act, the Williston

1 exchange cannot qualify for universal service when there is a change in ownership after
2 1996. No LEC qualifies to receive universal service funding (the only exception is the
3 Interstate Common Line Support category) to subsidize the high costs of service in an
4 exchange that was formerly owned by US West (now Qwest). That principle applies to all
5 the small town exchanges in North Dakota that US West sold to rural telephone companies
6 after 1996. That principle is the “parent trap” rule that I referred to earlier in my testimony.
7

8 **Q: Does Missouri Valley receive any universal service funds?**

9 A: As mentioned earlier, MVC receives the ICLS category of high cost program support from
10 the Universal Service Fund. Missouri Valley receives revenues from the federal Lifeline and
11 Link-up programs, but this is not the same as universal service support to subsidize
12 companies that serve high cost areas.
13

14 **Q: Please explain.**

15 A: Lifeline and Link-up programs subsidize low income telephone consumers. Lifeline and
16 Link-up programs subsidize low income persons who qualify, just like food stamp and rent
17 subsidy programs provide financial support to low income citizens. The government pays
18 grocers, landlords and telephone companies, on behalf of certain consumers. Lifeline
19 consumers pay reduced charges for basic telephone service, and the federal universal
20 service program reimburses telephone companies for the Lifeline discounts.
21

22 Missouri Valley receives Lifeline payments the government pays on behalf of low income
23 consumers in Williston, just like US West receives Lifeline payments in Bismarck and Fargo
24 and in other cities in other states. No telephone company needs or receives a subsidy to
25 provide basic telephone service to low income consumer because It doesn't cost any more
26 to provide basic local service to low income consumers than the costs to provide service to

1 other consumers. Lifeline and Link-up programs subsidize low income telephone
2 consumers; those programs do not subsidize any telephone companies.

3
4 **Q: How many low income consumers participate in the Lifeline program in Missouri
5 Valley's Williston exchange area?**

6 A: That number varies as customers come and go. So far in 2008, our number of Lifeline
7 consumers is approximately 440.

8
9 **Q: How much revenue does Missouri Valley receive from the Lifeline program?**

10 A: The amount that the universal service program pays is \$10.00 per month, so our annual
11 revenue for 2008 would include \$52,800 that the program pays on behalf of Lifeline
12 consumers.

13
14 **Q: Does Missouri Valley reap any extra profits or incur any extra costs for participating
15 in the Lifeline program?**

16 A: We make no extra profits. Some people regard low income customers as a credit risk, so
17 the fact that the universal service program pays part of the costs of service to this group of
18 customers has the effect to reduce losses from unpaid bills. Also, Missouri Valley offers its
19 Lifeline customers an additional discount of \$3.50 per month, so that is a cost in the sense
20 we receive reduced revenues from low income consumers.

21
22 **Q: Please explain the additional discount.**

23 A: Under the federal Lifeline plan, there are several tiers of support. Tier 1 is \$6.50 that the
24 federal program makes routinely makes available for all Lifeline consumers, to pay the
25 monthly end user common line charge that the FCC imposes on all local access lines. Tier

1 2 is an additional amount that is routinely available as a federal subsidy for local service to
2 low income consumers. That amount is \$1.75. Tier 3 is a 50% matching program. If the
3 state requires or if the local telephone company will offer a discount up to \$3.50 per month,
4 the federal program will provide an additional \$1.75, monthly. Missouri Valley does offer an
5 additional \$3.50 monthly discount to Lifeline customers, so the maximum Lifeline benefit of
6 \$13.50 is available in Williston. The total monthly benefit of \$13.50 includes \$10.00 paid
7 from the federal program and the \$3.50 discount granted by Missouri Valley. For 440
8 Lifeline customers at the rate of \$3.50 per month. Missouri Valley's total annual contribution
9 to the universal service Lifeline program is \$18,480.
10

11 **Q: How would Missouri Valley's interconnection with Midcontinent affect the Lifeline**
12 **program in the Williston exchange?**

13 A: My previous testimony about anticipated changes in market share, which assumes 17%
14 growth annually for Midcontinent and corresponding shrinkage in Missouri Valley's market
15 share, includes an expectation that Missouri Valley would retain all of the low income
16 consumers, because they are not part of Midcontinent's target market, and because it is
17 uncertain if Midcontinent could qualify to participate in the Lifeline program. Declining
18 revenues would have a negative impact on Missouri Valley's ability to continue to offer the
19 added \$3.50 monthly discount to Lifeline consumers. And, if Missouri Valley were not to
20 make that contribution, the federal program would not pay the \$1.75 matching amount. The
21 result could be low income consumers' monthly bills increasing by \$5.25.
22

23 **Q: Moving on from Lifeline to other universal service matters, please explain your**
24 **statement that for Missouri Valley to lose substantial proportions of its revenues as a**

1 **consequence of interconnection with Midcontinent would impair Missouri Valley's**
2 **ability to perform its universal service obligations.**

3 A; Universal service considerations are not limited only to low income consumers. Universal
4 service is important to all consumers. In addition to making or keeping telephone service
5 available and affordable to low income consumers, there is also the fundamental concern of
6 keeping all consumers in every exchange area connected and to have up-to-date services
7 available. Universal service policy necessarily includes an expectation on the part of
8 consumers and their governmental institutions that one, at least one, telecommunications
9 carrier will provide telephone exchange service and access to interexchange carriers in all
10 regions of the Nation, including high cost to serve rural areas. The common shorthand
11 expression is "carrier of last resort."

12
13 Missouri Valley understands it bears the carrier of last resort responsibility in the Williston
14 exchange area. The ability to fulfill these responsibilities is endangered by the substantial
15 financial impacts about which I have already testified, and especially in an environment
16 where the definition of universal service is expanding to include broadband speed access to
17 the internet. As I have already testified, Missouri Valley's annual net revenues would be
18 substantially reduced as a consequence of interconnection. But Missouri Valley's universal
19 service obligations and the expenses to perform those obligations would be unchanged.
20 For Missouri Valley to lose such substantial proportions of its revenues as a consequence
21 of interconnection with Midcontinent would impair Missouri Valley's ability to perform its
22 universal service and carrier of last resort obligations in the entire Williston exchange area,
23 including all the areas outside the City of Williston where Midcontinent is not required by its
24 cable franchise to extend facilities.

1 Frankly, we see a potential for cream skimming that is inconsistent with universal service
2 policy, and this potential has previously been recognized by Midcontinent.
3

4 **Q: What do you mean by “cream skimming?”**

5 A: As an ILEC with a PC&N certificate to serve the entire Williston exchange area, Missouri
6 Valley expects its net revenues from the more densely populated part of the service area
7 should provide financial support to service in the outlying areas that is served by Missouri
8 Valley. Midcontinent’s facilities and its target market are in Williston only. Its franchise is
9 limited to the municipal city limits of Williston. As a CLEC, Midcontinent does not have the
10 same responsibility. If telephone revenues from inside the city of Williston are migrated
11 from Missouri Valley to Midcontinent, the net revenues will not be available to support
12 service outside the city.
13

14 **Q: How has the potential for “cream skimming” been previously recognized by
15 Midcontinent?**

16 A: In the NDTC case, Mr. Gates stated that the desire for competition does not override the
17 federal goal for preservation and advancement of universal service, and to harm universal
18 service one would expect people or businesses to drop off the network. I’m referring to
19 page 19 of his written testimony in that case. Our financial impact statement shows how
20 people or businesses should be expected to drop off our network as a consequence of
21 interconnection, and that is exactly Midcontinent’s business plan - to take market share in
22 the city of Williston from Missouri Valley. That would harm universal service in the way that
23 both we and Mr. Gates predict.
24

25 **Q: What are Missouri Valley’s carrier of last resort responsibilities?**

1 A: Missouri Valley understands it is obliged to provide service to all consumers in the Williston
2 exchange area, whereas no CLEC is obliged. For example:

3 Missouri Valley, like its ILEC predecessors US West and Citizens, is obliged to provide
4 service to all consumers in the Williston exchange area, including those consumers who
5 might choose and later reject a CLEC's service.

6 Missouri Valley, like its ILEC predecessors, must maintain its loop throughout the entire
7 exchange area, ready, willing and able to provide service to all, not picking and choosing
8 sub-markets in the exchange area, as a CLEC might. This distinction is particularly
9 pertinent in comparing Missouri Valley to Midcontinent, because Midcontinent's TV cables
10 are limited to the City of Williston and its outskirts, whereas Missouri Valley's responsibilities
11 encompass the entire Williston exchange area that is many times larger than the area of the
12 City.

13 A CLEC may leave a market if it deems that to be in its interests, without Commission
14 oversight.

15 Missouri Valley, like its ILEC predecessors, is obliged to remain in the market ready, willing
16 and able to provide service to the entire community unless and until it were to arrange for
17 another carrier to assume those fundamental obligations of an ILEC.

1 **Q: Are you aware that Missouri Valley has also filed a petition with the NDPSC seeking**
2 **relief under § 251(f)(2) of the federal Act?**

3 A: Yes. I am aware that Missouri Valley's petition, case number 08-176, is consolidated with
4 the case filed by Midcontinent and that the Commission will hear testimony and receive
5 evidence regarding both cases at the July 9, 2008 hearing.

6

7 **Q: Do you have testimony to offer in case number 08-176 that has not been previously**
8 **offered from your previous testimony?**

9 A: Yes.

10

11 **Q: What is the purpose of your testimony in this case number 08-176?**

12 A: The purpose of my testimony is to show that it is necessary that interconnection
13 requirements under section 251(c) of the Telecommunications Act should be modified or
14 suspended as to Missouri Valley. The purpose of my testimony in case number 176 is
15 related to my testimony in case number 08-61. In Case no 61, Missouri Valley's position is
16 its exemption from interconnection should not be terminated. My testimony in case number
17 176 is to support an alternative position. If the exemption is not sustained because the
18 Commission concludes Midcontinent has met its burden of proof with respect to the undue
19 economic burden issue and impairment of universal service principles, interconnection
20 requirements should be suspended or modified. Because the testimony is related, I ask
21 that my testimony in case no 08-61 and exhibits be incorporated by reference in my
22 testimony in this case, 08-176.

23

24 **Q: In summary, what are the reasons that interconnection requirements should be**
25 **suspended or modified.**

1 A: The statutory standards for suspension or modification of interconnection requirements are
2 very similar to the statutory standards whether the exemption from interconnection should
3 be terminated. So much of my previous testimony applies in both cases.

4
5 **Q: Let's proceed, using the statutory standards.**

6 **Q: Is Missouri Valley a local exchange carrier with fewer than 2 percent of the Nation's**
7 **subscriber lines installed in the aggregate nation wide? As you answer this**
8 **question, you should consider not only Missouri Valley's subscriber lines, but also**
9 **the lines of all local exchange carriers included under common ownership.**

10 A: Yes. As I testified in the 08-61 case, Missouri Valley is a wholly owned subsidiary of
11 Nemont Telephone Cooperative, which is a local exchange carrier. There are two
12 additional ILECs in the Nemont family (Nemont Telephone Cooperative, Inc. and Project
13 Telephone Company). The total number of subscriber lines under common ownership in
14 the Nemont family of companies is approximately 26,000. The Nation's installed subscriber
15 lines is far in excess of 1,300,000. Nemont's and Missouri Valley's total of subscriber lines
16 is fewer than 2 percent of the Nation's total subscriber lines.

17
18 **Q: Is suspension or modification of interconnection requirements necessary to avoid a**
19 **significant adverse economic impact on users of telecommunications services**
20 **generally?**

21 A: Yes.

22
23 **Q: Why?**

24 A: The statutory words "necessary to avoid a significant adverse economic impact on users of
25 telecommunications services generally," summarize my testimony in the 08-61 case about

1 why interconnection is not consistent with universal service policy. For Missouri Valley to
2 lose substantial proportions of its revenues as a consequence of interconnection with
3 Midcontinent would impair Missouri Valley's ability to perform its universal service and
4 carrier of last resort obligations.

5
6 **Q: Is suspension or modification of interconnection requirements necessary to avoid**
7 **imposing a requirement that is unduly economically burdensome?**

8 A: Yes. Those words in section 251 (f)(2) are identical to the criteria under section 251 (f)(1).
9 My testimony in the 08-61 case is equally applicable to question whether interconnection
10 requirements should be suspended or modified. For Missouri Valley to lose substantial
11 proportions of its revenues as a consequence of interconnection with Midcontinent would
12 impose a financial impact that is an undue economic burden, undue to be imposed on a
13 rural telephone company.

14
15 **Q: Is interconnection technically feasible?**

16 A: Missouri Valley does not assert that interconnection or number portability should be
17 suspended or modified on grounds of technical feasibility. But there would be
18 implementation costs to be considered, as I testified in the 08-61 case.

19
20 **Q: Is suspension or modification of the interconnection requirements of 47 U.S.C. 251**
21 **(c) consistent with the public interest, convenience and necessity.**

22 A: Yes.

23
24 **Q: Why?**

1 A: Midcontinent is not a CLEC seeking to enter the Williston exchange to compete on equal
2 terms with Missouri Valley. Midcontinent is not only a CLEC, it is also a cable TV company
3 providing video programming in the City of Williston and its outskirts, an area where
4 Missouri Valley does not provide video programming. If Missouri Valley were obliged to
5 interconnect with Midcontinent, Midcontinent would have an obvious competitive advantage
6 as it offers bundles of telephone and cable TV service, increasing the probability of
7 Midcontinent's gaining the market shares we have projected. We think that is an advantage
8 that is not only unfair, it is inconsistent with "level playing field" provisions of the
9 Telecommunications Act.

10
11 **Q: Please explain.**

12 A: The rural exemption from interconnection is not available to a rural telephone company if
13 the CLEC that has requested interconnection is a cable operator providing video
14 programming and the rural ILEC also provides video programming. Midcontinent is a cable
15 operator, but Missouri Valley is not, so the exemption remains in effect.

16
17 There is an evident "level playing field" rationale underlying the video programming
18 limitation on the rural exemption. A rural telco that also provides cable TV services does
19 not need or deserve an exemption or any protection from competition posed by a cable TV
20 company that enters the local telephone market. A rural telephone company that does not
21 also provide cable TV services does need and deserve protection from competition posed
22 by a cable TV company that enters the telephone market. Under "level playing field"
23 principles, it is not fair for a CLEC to have the opportunity to bundle cable TV and telephone
24 service as a way to siphon telephone customers away from a rural ILEC that does not offer
25 cable TV services. It is particularly unfair where the CLEC would use the ILEC's facilities to
26 take away the ILEC's customers.

1 **Q: Are there any universal service aspects to public interest, convenience and**
2 **necessity?**

3 A: Yes. To my mind, it is a matter of public interest, convenience and necessity that universal
4 service policy be considered in the 176 case, just as universal service must be considered
5 in the 61 case. Missouri Valley participates in the Lifeline program and Missouri Valley
6 contributes discounts to low income customers. Midcontinent does not. Missouri Valley
7 bears COLR universal service responsibilities in the entire Williston exchange area,
8 whereas Midcontinent has the option to pick and choose its markets, to engage in cream
9 skimming. For Missouri Valley to lose substantial proportions of its revenues as a
10 consequence of interconnection with Midcontinent would impair Missouri Valley's ability to
11 perform its universal service and carrier of last resort obligations.

12
13 This is another aspect of the level playing field argument, and it is not just a matter of equal
14 financial opportunities for two companies and their shareholders. If one company bears
15 universal service obligations and the other does not, and if the company with universal
16 service obligations suffers financial impacts, there is a consumer interest, a public interest
17 that these impacts be avoided so that universal service can be sustained. For these
18 reasons, we believe it is necessary and in the public interest that interconnection obligations
19 imposed on Missouri Valley are suspended or modified so long as Missouri Valley does not
20 offer cable TV service.

21
22 **Q: Are there other considerations affecting the public interest?**

23 A: Yes. The Williston exchange has a sufficient level of competitors to insure consumers have
24 high quality, affordable choices.

25

1 **Q: Do you have an opinion regarding the level of competition in the city of Williston?**

2 A. My view is that for a small city in northwest North Dakota there is a significant amount of
3 competition. There are at least 5 providers of fixed or mobile voice communications
4 services including Verizon, Alltel, Sagebrush, Midco and MVC. There are at least 5
5 providers of fixed line or wireless high speed internet including Midco, MVC, Northwest
6 Communications Cooperative (NCC), WildBlue Satellite, and Hughes Satellite. There are
7 at least 10 interexchange carriers including Verizon Business (old MCI), AT&T, Sprint,
8 Midco, Qwest, McLeodUSA, Excel, SRT, VARTEC, and North Dakota Long Distance, and
9 this excludes long distance that can be place from cellular providers. Broadband customers
10 are able to use VOIP carriers such as Skype in Williston. In addition, Montana Dakota
11 Utilities (MonDak) has received a "Dark Fiber Franchise" from the city of Williston for
12 purposes of leasing to large customers who wish to self provision their own services such
13 as the State of North Dakota. In addition, AT&T recently acquired 700 MHz spectrum
14 through the FCC's auction for geography that includes Williston.

15
16 **Q: Are there any requirements under section 251 (b) or (c), other than the
17 interconnection requirement, that should be suspended or modified?**

18 A: Yes. Section 251 (c) includes interconnection requirements and the duty to negotiate in
19 good faith the terms and conditions of interconnection. Missouri Valley is exempt from
20 those obligations under section 251 (f)(1), but the exemption might be terminated. If the
21 Commission terminates the exemption but suspends the interconnection requirement, then
22 it should also suspend the negotiation requirement because there is nothing to negotiate
23 while interconnection is suspended.

24
25 **Q: Does this conclude your testimony?**

1 A: Yes, but I expect to offer testimony at the July 9 hearing as well.

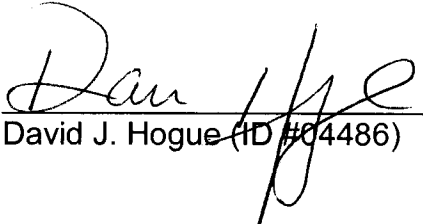
2

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing **DIRECT TESTIMONY OF SHAWN HANSON WITH EXHIBITS 1 & 2** was, on the 26th day of June, 2008, mailed to:

Mr. John M. Olson
418 E. Broadway Ave., Ste. 9
Bismarck, ND 58501

Mr. Allen C. Hoberg
Office of Administrative Hearings
State of North Dakota
1707 North 9th Street
Bismarck, ND 58501-1882


David J. Hogue (ID #04486)

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Midcontinent Communications, a)	
South Dakota Partnership,)	
)	
Complainant,)	
vs.)	Case No: PU-08-61
)	
Missouri Valley Communications, Inc.,)	
)	
Respondent.)	

**Motion for Immediate Order Compelling Discovery or, in the alternative, Motion to dismiss
Petition of Midcontinent Communications, Inc. for removal of rural exemption**

Background

On November 14, 2007, Midcontinent Communications ("Midcontinent") made a request for a facilities based interconnection agreement with local number portability (LNP) services for the Williston North Dakota exchange from Missouri Valley Communications, Inc. ("Missouri Valley"). On February 8, 2008, Midcontinent filed with the Commission its Notice of Bona Fide Request for Services and Interconnection and Petition to Find Rural Exemption Waived.

On May 7, 2008, the Commission issued a Notice of Consolidated Hearing scheduling a hearing in Cases No. PU-08-61 and No. PU-08-176 for July 9, 2008, identifying the following issue, among others:

1. Whether the request of Midcontinent is unduly economically burdensome to Missouri Valley.

Though it does not bear the burden of proof on this issue, Missouri Valley has provided its analysis of the economic burden it will sustain from the proposed interconnection with written answers to interrogatories, producing documents including a spreadsheet of its analysis, and through deposition testimony of expert witnesses. Missouri Valley has asked Midcontinent to provide its analysis through written discovery and deposition testimony. To date, Midcontinent has failed to provide any evidence regarding whether its proposed interconnection would be unduly economically burdensome to Missouri Valley.

Summary of Argument

Midcontinent bears the burden of proof in this case. Midcontinent must persuade the Commission, by a preponderance of the evidence, that the physical interconnection it seeks to establish with Missouri Valley is not unduly economically burdensome to Missouri Valley. Further, Midcontinent has the burden of establishing, by a preponderance of the evidence, that the interconnection it seeks with Missouri Valley is consistent with Universal Service principles contained in § 254 of the Act.

In view of Midcontinent's burden, Missouri Valley sent Midcontinent interrogatories and requests for documents asking that Midcontinent provide evidence that the interconnection proposed by Midcontinent is not unduly economically burdensome to Missouri Valley. Midcontinent did not produce any evidence. As of the date for submission of this motion,

submitted 15 days before the July 9, 2008 hearing, Midcontinent still has not produced any evidence regarding the core issue over which it bears the burden of proof.

Missouri Valley's position is thus straightforward: Midcontinent must either immediately produce the evidence on which it bears the burden of proof, as required by the North Dakota Rules of Civil Procedure, or its petition should be dismissed.

Argument

On April 9, 2008, Missouri Valley served on Midcontinent interrogatories and requests for production of documents under Rules 33 and 34 of the North Dakota Rules of Civil Procedure. Among other matters, Missouri Valley requested that Midcontinent provide: "Copies of all analyses performed by or on behalf of Midcontinent concerning the financial impact on Missouri Valley associated with Midcontinent's and Missouri Valley's entering into the interconnection agreement proposed by Midcontinent on November 14, 2007." In addition, Missouri Valley requested Midcontinent identify persons Midcontinent expected to call as expert witnesses and the subject matter and substance of testimony. A copy of Missouri Valley's April 9 interrogatories are attached to this motion as exhibit 1.

On May 9, 2009, Midcontinent responded to Missouri Valley's interrogatories and requests for production of documents. Responding to above-referenced discovery requests, Midcontinent stated:

Midcontinent has not created any analysis concerning the financial impact on Missouri Valley associated with entering into an interconnection agreement. Midcontinent has not identified the individuals it anticipates calling as expert witnesses at this time. Midcontinent anticipates that any expert witnesses will testify as to the potential impacts of facilities based competition on markets, consumers and universal service.

A copy of Midcontinent's May 9, 2008 answers is attached hereto as exhibit 2. Since May 9, 2008, Midcontinent has not supplemented its response to Midcontinent's request for copies of all analyses performed by or on behalf of Midcontinent concerning the financial impact on Missouri

Valley associated with Midcontinent's and Missouri Valley's entering into the interconnection agreement proposed by Midcontinent on November 14, 2007, as required by Rule 26(e).

Midcontinent has asked for and Missouri Valley has provided Missouri Valley's financial analysis. On February 22, 2008, Midcontinent served on Missouri Valley a notice to take depositions and request for production of documents under Rules 30 and 34 of the North Dakota Rules of Civil Procedure requesting, among other matters, that Missouri Valley produce "[c]opies 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 area."

On April 25, 2008, at a deposition pursuant to Midcontinent's notice to take depositions and request for production of documents, Missouri Valley produced its analysis of the financial impact of providing facilities based interconnection to Midcontinent. Missouri Valley also produced two witnesses, audited financial statements, among other financial data.

Missouri Valley has made a good faith effort to secure the information requested without action by the Commission or the Administrative Judge. Those efforts have resulted in Midcontinent's identification of one expert witness and arrangements for Missouri Valley's deposition of that expert witness and one witness employed by Midcontinent held on June 24, 2008. Those efforts have not resulted in Midcontinent's producing an analysis of the impact of entering into a new interconnection agreement with Missouri Valley.

Midcontinent's assertion on May 9, 2008 that it has not created any analysis concerning the financial impact on Missouri Valley associated with entering into an interconnection agreement is incredible, and, if it remains the status quo, fatal to Midcontinent's petition for interconnection.

In previous cases, Midcontinent has been able to produce its analysis well before the evidentiary hearing. It strains credulity that Midcontinent did not have adequate information on May 9th 2008 about the financial impact of a proposal it made 6 months earlier, in November of 2007. The limits of credulity were breached when Midcontinent pleaded ignorance on May 9th

after it received Missouri Valley's April 25th response to Midcontinent's earlier similar interrogatory. Missouri Valley produced its own financial impact statement and other financial information, so Midcontinent has had information available to make its own analysis since April 25th, if not earlier. (See testimony of Midcontinent's financial impact expert in Case No. PU-05-451, where his analysis was based on "revenue data for these exchanges, as well as company-wide accounting data provided in response to discovery." Written testimony of Warren R. Fischer, page 6. That testimony was dated December 21, 2005, before the hearing on January 23, 2006.) Midcontinent's continuing failure to amend its May 9th response is both a knowing concealment, under Rule 26(e)(2), N.D.Civ.P. and a failure to respond, under Rule 37, N.D.Civ.P.

As the Commission is aware, the instant case is not the first time Midcontinent has challenged the rural exemption of a rural telephone company in North Dakota. To be fair, in previous cases before the Commission involving Midcontinent, whether the rural exemption should be removed has been mooted by the rural telephone company's decision to offer video services, and thus waive the rural telephone company's exemption. See § 251(f)(1) of the Act and case No. PU-05-451. Missouri Valley does not offer video services. (*Hanson pre-filed 9, ll. 11.*) Missouri Valley has no plans to offer video services. (*Id. ll. 19.*) Thus, the issue of undue economic burden is squarely presented in this case.

But Midcontinent was obviously aware early and on its own volition of the need for financial impact analyses in Commission proceedings initiated by Midcontinent's Notice of Bona Fide Request for Services and Interconnection. Midcontinent knew or should have known before it received interrogatories from Missouri Valley and before May 7, when the Commission issued a Notice of Consolidated Hearing scheduling a hearing, that issue number one would be whether the request of Midcontinent is "unduly economically burdensome." The quoted words are taken from the Telecommunications Act of 1996.

Under § 251(f)(1)(A), Missouri Valley is exempt from the requirement to provide the service requested until Missouri Valley has received a bona fide request from Midcontinent and the

Commission determines that such "...request is not unduly economically burdensome, is technically feasible, and is consistent with section 254..." Whether Midcontinent's request is not unduly economically burdensome is not only an issue under the notice of hearing, it is a statutory prerequisite on which Midcontinent bears the burden of proof.

Though earlier Commission orders suggested the rural telephone company bore the burden of proof relative to whether a proposed interconnection was unduly economically burdensome, the Eighth Circuit Court of Appeals has resolved the matter. In *Iowa Utilities Board v. Federal Communications Commission*, 219 F.3d 744, 762 (8th Cir. 2000), the Court made clear that the "plain meaning of the statute requires the party making the request to prove that the request meets the three prerequisites to justify the termination of the otherwise continuing rural exemption." *Iowa Utilities Board v Federal Communications Commission*, 219 F.3d 744, at 762. (8th Cir. 2000). The three prerequisites to which the court referred are "is (1) not unduly economically burdensome, (2) technically feasible, and (3) consistent with section 254." *Id.* at 761, *citing* Act § 251 (f)(1)(A).

Midcontinent's statement that "Midcontinent has not created any analysis concerning the financial impact on Missouri Valley associated with entering into an interconnection agreement" seems incredible, considering the nature of the pending case. Missouri Valley's interrogatory was aimed at "... the financial impact on Missouri Valley associated with Midcontinent's and Missouri Valley's entering into the interconnection agreement proposed by Midcontinent on November 14, 2007It is not too much for to insist that the party that has the burden of proof must produce its evidence in routine pre-hearing discovery. Midcontinent has not yet done so, and the hearing date, July 9, is fast approaching.

The parties have agreed to the deposition of Midcontinent's witnesses on June 24, 2008. Missouri Valley took the deposition of Timothy Gates, an expert witness retained by Midcontinent on June 24, 2008. That deposition has not produced the economic analysis that Missouri Valley requested, that Midcontinent has conducted in previous cases, nor, importantly, the analysis that is

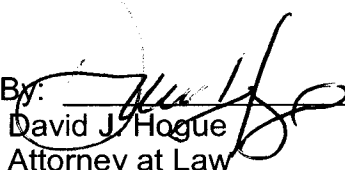
required for Midcontinent to go forward with to meet its evidentiary burden on July 9. Accordingly, Midcontinent should be directed to immediately reveal its evidence or Midcontinent's request for interconnection should be dismissed.

Motion

Pursuant to Rule 37(a)(2) of the North Dakota Rules of Civil Procedure and § 28-32-33, NDCC which makes the discovery provisions of the Rules of Civil Procedure applicable to Administrative Agency Adjudicative Proceedings, Missouri Valley moves for an immediate order compelling Midcontinent to produce "copies of all analyses performed by or on behalf of Midcontinent concerning the financial impact on Missouri Valley associated with Midcontinent's and Missouri Valley's entering into the interconnection agreement proposed by Midcontinent on November 14, 2007," as requested by Missouri Valley on April 9, 2008. In the alternative, Missouri Valley asks the Commission to dismiss the petition of Midcontinent.

Dated this 26th day of June, 2008.

Pringle & Herigstad, P.C.

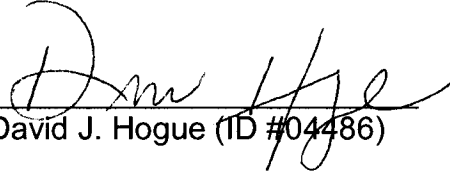
By: 
David J. Hogue
Attorney at Law
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000
(701) 852-0381

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing **MOTION TO COMPEL OR MOTION TO DISMISS** was, on the 26th day of June, 2008, mailed to:

Mr. John M. Olson
418 E. Broadway Ave., Ste. 9
Bismarck, ND 58501

Mr. Allen C. Hoberg
Office of Administrative Hearings
State of North Dakota
1707 North 9th Street
Bismarck, ND 58501-1882


David J. Hogue (ID #04486)

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

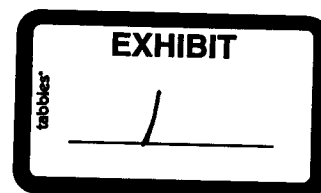
Midcontinent Communications, a)	
South Dakota Partnership,)	
)	
Complainant,)	
vs.)	Case No: PU-08-61
)	
)	
Missouri Valley Communications, Inc.,)	
)	
Respondent.)	

**INTERROGATORIES AND DEMAND FOR PRODUCTION OF DOCUMENTS
TO COMPLAINANT MIDCONTINENT COMMUNICATIONS**

PLEASE TAKE NOTICE that pursuant to Rules 33 and 34 of the North Dakota Rules of Civil Procedure the undersigned demands answers to the following Interrogatories under oath:

INTERROGATORY NO. 1: As of the close of business on December 31, 2007, provide the following information with respect to Midcontinent Communications' customers in the Williston area:

- a. Total number of telephone and video customers;
- b. Total number of telephone customers;
- c. Total number of video customers;
- d. Number of video customers who are not also telephone customers;
- e. Number of video customers who are also telephone customers;
- f. Number of telephone customers who are not also video customers;
- g. Number of telephone customers who are also video customers;



- h. Total number of business telephone and video customers;
- i. Total number of business telephone customers;
- j. Total number of business video customers;
- k. Number of business video customers who are not also telephone customers;
- l. Number of business video customers who are also telephone customers;
- m. Number of business telephone customers who are not also video customers;
- n. Number of business telephone customers who are also video customers;
- o. Total number of residential telephone and video customers;
- p. Total number of residential telephone customers;
- q. Total number of residential customers;
- r. Number of residential video customer who are not also telephone customers;
- s. Number of video customers who are also telephone customers;
- t. Number of residential telephone customers who are not also video customers;
- u. Number of telephone customers who are also video customers;

DEMAND FOR PRODUCTION NO. 1: Copies of all analyses performed by or on behalf of Midcontinent concerning the financial impact on Missouri Valley

associated with Midcontinent's and Missouri Valley's entering into the interconnection agreement proposed by Midcontinent on November 14, 2007.

To the extent such analyses exist in electronic spreadsheet format, such as Microsoft Excel, provide the requested information in the native software format with all formulas intact.

DEMAND FOR PRODUCTION NO. 2: Copies of all analyses performed by or on behalf of Midcontinent concerning the financial impact on Midcontinent associated with Midcontinent's and Missouri Valley's entering into the interconnection agreement proposed by Midcontinent on November 14, 2007.

To the extent such analyses exist in electronic spreadsheet format, such as Microsoft Excel, provide the requested information in the native software format with all formulas intact.

INTERROGATORY NO. 2: Identify each and every person whom you expect to call as an expert witness at trial, and for each state the following:

- a. The subject matter on which he or she is expected to testify;
- b. The substance of the facts and opinions to which he or she is expected to testify; and
- c. A summary of the grounds for each of the above stated opinions.

INTERROGATORY NO. 3: Describe in detail and not in summary fashion Midcontinent's 2008 and 5 year capital expenditure plan for extending its facilities beyond the Williston city limits into the rural portions of MVC's exchange.

DEMAND FOR PRODUCTION NO. 3: Provide a map and description of the area Midco is authorized to serve for cable television, cable internet, and local landline service.

DEMAND FOR PRODUCTION NO. 4: Attach a complete copy of any and all franchises held by Midcontinent within or pertaining to the Williston Exchange.

DEMAND FOR PRODUCTION NO. 5: Any maps or documents that illustrate Midcontinent current network facilities and route miles of such facilities in the Williston Exchange, including such facilities beyond the Williston city limits.

INTERROGATORY NO. 4: Describe in detail how Midcontinent offers its existing and future customers equal access to long distance carriers.

INTERROGATORY NO. 5: Describe Midcontinent's local calling scope and reciprocal comp agreements for purposes of originating and terminating traffic with cellular and other local carriers who may have EAS agreements involving the Missouri Valley Serving area.

INTERROGATORY NO. 6: Identify the number of Midcontinent telephone customers outside of the Williston city limits, residing within the Missouri Valley exchange boundary in Williams county.

INTERROGATORY NO. 7: Identify the number low income, lifeline and link up customers served by Midcontinent in Williston.

INTERROGATORY NO. 8: Identify the number of TDD customers served by Midcontinent in Williston.

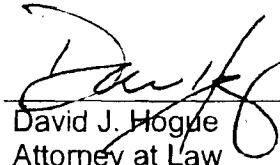
DEMAND FOR PRODUCTION NO. 6: Provide a copy of Midcontinent's manual or other written procedures for CPNI compliance.

DEMAND FOR PRODUCTION NO. 7: Provide a copy of Midco's E911 agreement(s) with the city of Williston and Williams County.

DEMAND FOR PRODUCTION NO. 8: Provide any documentation that supports Midcontinent's ESA (Emergency Stand Alone) capability for providing dial tone in the event that the transport network to its switch is severed.

Pringle & Herigstad, P.C.

By:

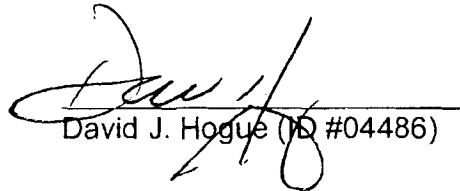


David J. Hogue
Attorney at Law
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000
(701) 852-0381

CERTIFICATE OF SERVICE

A true and correct copy of the foregoing **RESPONDENTS' INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS TO CLAIMANT, SET NO. 1** was, on the 9th day of April, 2008, mailed to:

Mr. John M. Olson
418 E. Broadway Ave., Ste. 9
Bismarck, ND 58501



David J. Hogue (ND #04486)

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

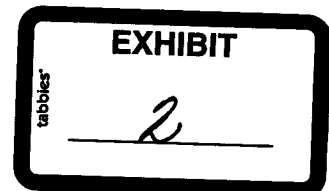
Midcontinent Communications, a)	
South Dakota Partnership,)	
)	
Complainant,)	
vs.)	Case No: PU-08-61
)	
)	OAH No. 20080079
Missouri Valley Communications, Inc.,)	
)	
Respondent.)	

COMPLAINANT’S ANSWERS TO RESPONDENT’S INTERROGATORIES AND DEMAND FOR PRODUCTION OF DOCUMENTS

COMES NOW Complainant, Midcontinent Communications, a South Dakota Partnership, for its answers to Respondent’s Interrogatories and Demand for Production of Documents, states as follows:

The responses and production of documents provided by the Complainant herein contain confidential information and shall not be disclosed to any other party except as otherwise authorized in writing by the Complainant in these proceedings, and the Respondent shall, by acceptance of these responses and documents, further agree to the entry of a protective order by the Administrative Law Judge and the Public Service Commission prohibiting any third party or public disclosure of the responses and the documents as may be designated by the Complainant in accordance with N.D.C.C. sec 28-32-33(3).

These responses are based upon facts known or believed by Complainant Midcontinent Communications, a South Dakota Partnership, at the time of answering these interrogatories.



Discovery and investigation in this case is continuing. Complainant Midcontinent Communications, a South Dakota Partnership, therefore reserves the right to amend these answers as and if new or more complete information becomes available, or if errors are discovered. Furthermore, these responses are given without prejudice to Midcontinent Communications' right to rely at hearing on subsequent discovered information or on information inadvertently omitted from these answers as a result of mistake, error or oversight.

Complainant objects to these interrogatories insofar as they seek information which evidences or constitutes attorney's work product, which is subject to the attorney-client privilege, or which is otherwise not discoverable under the North Dakota Rules of Civil Procedure.

Complainant further objects to these interrogatories on the grounds that they are in large part overbroad and therefore oppressive, burdensome, harassing and not reasonably calculated to lead to the discovery of admissible evidence.

Complainant's responses are made without in any way waiving: (1) the right to object on the grounds of competency, relevancy and materiality, hearsay, or any other proper ground to the use of any such information, for any purpose, in whole or in part, in any action, and (2) the right to object on any and all grounds, at any time, to any other discovery procedure involving or relating to the subject matter of these interrogatories.

Complainant does not waive these objections by providing responses to individual interrogatories or by raising additional objections to individual interrogatories. The preliminary statement and all objections set forth herein are incorporated by reference in each response set forth below.

Incorporating the above objections into each response, Complaint responds as follows:

INTERROGATORY NO. 1: As of the close of business on December 31, 2007, provide the following information with respect to Midcontinent Communications' customers in the Williston area:

ANSWER: In the response to this Interrogatory Midcontinent defines Williston area to include those customers within the city of Williston and those in new development areas not yet annexed into the city.

a. Total number of telephone and video customers;

ANSWER: 5,113

b. Total number of telephone customers;

ANSWER: 1,484

c. Total number of video customers;

ANSWER: 5,024

d. Number of video customers who are not also telephone customers;

ANSWER: 3,629

e. Number of video customers who are also telephone customers;

ANSWER: 1,395

f. Number of telephone customers who are not also video customers;

ANSWER: 89

g. Number of telephone customers who are also video customers;

ANSWER: 1,395

h. Total number of business telephone and video customers;

ANSWER: 975

-
- i. Total number of business telephone customers;
ANSWER: 23
- j. Total number of business video customers;
ANSWER: 958
- k. Number of business video customers who are not also telephone customers;
ANSWER: 952
- l. Number of business video customers who are also telephone customers;
ANSWER: 6
- m. Number of business telephone customers who are not also video customers;
ANSWER: 17
- n. Number of business telephone customers who are also video customers;
ANSWER: 6
- o. Total number of residential telephone and video customers;
ANSWER: 4,138
- p. Total number of residential telephone customers;
ANSWER: 1,461
- q. Total number of residential customers;
ANSWER: 4,138 (For purposes of this response, Midcontinent is providing the total number of residential customers for telephone and video services.)
- r. Number of residential video customer who are not also telephone customers;
ANSWER: 2,677
- s. Number of video customers who are also telephone customers;

ANSWER: 1,389

- t. Number of residential telephone customers who are not also video customers;

ANSWER: 72

- u. Number of telephone customers who are also video customers;

ANSWER: 1,389

DEMAND FOR PRODUCTION NO. 1: Copies of all analyses performed by or on behalf of Midcontinent concerning the financial impact on Missouri Valley associated with Midcontinent's and Missouri Valley's entering into the interconnection agreement proposed by Midcontinent on November 14, 2007. To the extent such analyses exist in electronic spreadsheet format, such as Microsoft Excel, provide the requested information in the native software format with all formulas intact.

ANSWER: Midcontinent has not created any analysis concerning the financial impact on Missouri Valley associated with entering into an interconnection agreement.

DEMAND FOR PRODUCTION NO. 2: Copies of all analyses performed by or on behalf of Midcontinent concerning the financial impact on Midcontinent associated with Midcontinent's and Missouri Valley's entering into the interconnection agreement proposed by Midcontinent on November 14, 2007. To the extent such analyses exist in electronic spreadsheet format, such as Microsoft Excel, provide the requested information in the native software format with all formulas intact.

ANSWER: Midcontinent has not prepared any analysis of the impact of entering into a new interconnection agreement with Missouri Valley Communications. Such an analysis would require information concerning the terms of such an agreement that is not

know at this time.

INTERROGATORY NO. 2: Identify each and every person whom you expect to call as an expert witness at trial, and for each state the following:

- a. The subject matter on which he or she is expected to testify;
- b. The substance of the facts and opinions to which he or she is expected to testify; and
- c. A summary of the grounds for each of the above stated opinions.

ANSWER: Midcontinent has not identified the individuals it anticipates calling as expert witnesses at this time. Midcontinent expects that any expert witnesses will testify as to the potential impacts of facilities-based competition on markets, consumers and universal service.

INTERROGATORY NO. 3: Describe in detail and not in summary fashion Midcontinent's 2008 and 5 year capital expenditure plan for extending its facilities beyond the Williston city limits into the rural portions of MVC's exchange.

ANSWER: Midcontinent has not prepared such plans.

DEMAND FOR PRODUCTION NO. 3: Provide a map and description of the area Midco is authorized to serve for cable television, cable internet, and local landline service.

ANSWER: Midcontinent objects to this Demand for Production as overbroad to the extent that it seeks any information concerning Midcontinent's service area outside the Missouri Valley Communications footprint, without waiving the objection, the following document is provided:

A PDF map showing the area where Midcontinent is authorized to provide cable service within the Missouri Valley Communications footprint is attached. (This map is entitled Williston Service Area.) A full description of the area where Midcontinent is authorized to provide cable service within the Missouri Valley Communications

footprint is included in the franchise agreement attached in response to Demand for Production No. 4.

Midcontinent is authorized by the North Dakota Public Service Commission to provide local telephone service and intrastate long distance service throughout North Dakota, including the Williston area. Midcontinent's authorizations are a matter of public record.

No authorization is required for Midcontinent to provide Internet access service.

DEMAND FOR PRODUCTION NO. 4: Attach a complete copy of any and all franchises held by Midcontinent within or pertaining to the Williston Exchange.

ANSWER: A copy of Midcontinent's cable franchise with the city of Williston is included.

DEMAND FOR PRODUCTION NO. 5: Any maps or documents that illustrate Midcontinent current network facilities and route miles of such facilities in the Williston Exchange, including such facilities beyond the Williston city limits.

ANSWER: A PDF map showing Midcontinent's network as it relates to Williston is attached. A map showing additional facilities relevant to Williston is provided in response to Demand for Production No. 8.

INTERROGATORY NO. 4: Describe in detail how Midcontinent offers its existing and future customers equal access to long distance carriers.

ANSWER: Midcontinent offers equal access to long distance providers to its customers. Customers are permitted to choose any carrier that purchases Feature Group D originating access service from Midcontinent. Customers may choose their Preferred Interexchange Carrier (PIC) by completing a Letter of Authorization, or responding to third party verification. When the PIC choice is for a carrier other than Midcontinent, Midcontinent's processes are to notify that carrier of choice through a CARE

(Customer Account Record Exchange) report. Likewise, Midcontinent will accept CARE reports from other carriers to provide long distance to a customer or another local carrier.

INTERROGATORY NO. 5: Describe Midcontinent's local calling scope and reciprocal comp agreements for purposes of originating and terminating traffic with cellular and other local carriers who may have EAS agreements involving the Missouri Valley Serving area.

ANSWER: Because Midcontinent has not been able to begin negotiating a facilities agreement with Missouri Valley, there have been no negotiations regarding EAS arrangements, but Midcontinent plans to mirror the current local arrangements in place. Midcontinent has agreements in place with Alltel, Verizon and RCC for exchange of traffic between Midcontinent customers and wireless customers.

INTERROGATORY NO. 6: Identify the number of Midcontinent telephone customers outside of the Williston city limits, residing within the Missouri Valley exchange boundary in Williams county.

ANSWER: There are 109 Midcontinent telephone customers outside of the Williston city limits, but within Williams County.

INTERROGATORY NO. 7: Identify the number low income, lifeline and link up customers served by Midcontinent in Williston.

ANSWER: Midcontinent serves 21 low income, Lifeline and Link-Up customers in Williston.

INTERROGATORY NO. 8: Identify the number of TDD customers served by Midcontinent in Williston.

ANSWER: Midcontinent does not have access to this information. Midcontinent does not require its customers to inform it if they obtain access to the telephone network via TDD or other assistive

devices.

DEMAND FOR PRODUCTION NO. 6: Provide a copy of Midcontinent's manual or other written procedures for CPNI compliance.

ANSWER: Midcontinent objects to this request on the ground that it is not relevant. Midcontinent's CPNI policy is not a matter in dispute in this proceeding and information concerning Midcontinent's CPNI policy will not lead to any admissible evidence in this proceeding.

DEMAND FOR PRODUCTION NO. 7: Provide a copy of Midco's E911 agreement(s) with the city of Williston and Williams County.

ANSWER: Because Midcontinent has not been able to begin negotiating a facilities agreement, there have been no negotiations regarding 911 arrangements, but Midcontinent plans to work with Williston and Williams County to provide 911 connectivity as it has in all facilities markets that it currently serves.

DEMAND FOR PRODUCTION NO. 8: Provide any documentation that supports Midcontinent's ESA (Emergency Stand Alone) capability for providing dial tone in the event that the transport network to its switch is severed.

ANSWER: Midcontinent currently has leased circuits from a third party which would be used to provide dial tone. This leased circuit is on a redundant path network providing a <50ms failover in the event of a fiber cut. The last 7 miles of this circuit is not redundant. Midcontinent has set aside funding in its capital plan to make this remaining section redundant and is currently pursuing bids.

Copies of the bid detail costing for the redundancy and the planned route map are included. The attachment titled Williston capital redundant route shows the cost estimates for this project. This document represents the costs associated to build a fiber connection that would route from the existing Midcontinent Communications headend located in Williston to the MVC facility. In addition, it contains the costs associated to build a fiber

connection that would route from the existing Midcontinent Communications headend located in Williston to the MVC facility. In addition, it contains the costs associated to build a fiber connection to create a diverse path from Midcontinent's existing OTN where the current leased access tie in is located back to the Midcontinent Communications headend.

A map titled Williston MVC also is attached. This map is a presentation view of construction needs that are described in the other document to bring services to both our OTN and MVC with tie in points to our existing Midcontinent Communications headend.

VERIFICATION

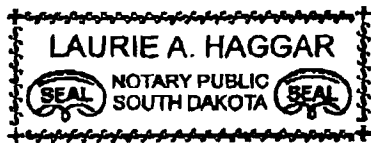
Complainant Midcontinent Communications, a South Dakota Partnership, being first duly sworn, by and through the undersigned, deposes and states that it is the Complainant in the above entitled action; that they have read the within and foregoing Answers to Interrogatories and Demand for Production of Documents and knows the contents thereof; and that the same is true to the best of their knowledge, information and belief.

Midcontinent Communications

By: *W. Tom Simmons*
W. Tom Simmons

Its: Senior Vice President, Public Policy
Midcontinent Communications Investor, LLC
Managing Partner of Midcontinent Communications

Subscribed and sworn to before me this 8th day of May, 2008.



Laurie A. Haggard
Notary Public
For the state of South Dakota
My commission expires:

**My Commission Expires
April 6, 2012**

AS TO THE OBJECTIONS:

Dated: May 9th, 2008.

JOHN M. OLSON, P.C.

By: 

John M. Olson ID# 03053

Attorney for: Midcontinent Communications

418 E. Broadway Ave., Suite 9

Bismarck, ND 58501

(701) 222-3485 - Phone

(701) 222-3091 - Fax

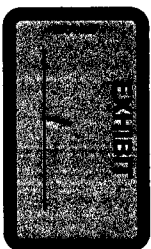
CERTIFICATE OF SERVICE

A true and correct copy of the foregoing **COMPLAINANT'S ANSWERS TO RESPONDENTS' INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS SET NO. 1** was, on the 9th day of May, 2008, mailed to:

David J. Hogue
Attorney at Law
2525 Elk Drive
P.O. Box 1000
Minot, ND 58702-1000


John M. Olson ID# 03053

Missouri Valley Communications									
Operating Expenses under Midco Impact									
	ACTUAL		Operating Expenses under Midco Impact						
	2007	2007	2008	2009	2010	2011	2012		
PLANT SPECIFIC OPER EXPENSES	-1,996,976	-1,996,976	-2150770	-2215293.1	-2281751.9	-2350204.4	-2420710.6	PLANT SPECIFIC OPER EXPENSES	
PLANT NONSPECIFIC OPER EXPENSES	-513,197	-513,197	-556530	-573225.9	-590422.68	-608135.36	-626379.42	PLANT NONSPECIFIC OPER EXPENSES	
DEPRECIATION EXPENSE	-804,877	-804,877	-803578	-805000	-805000	-805000	-805000	DEPRECIATION EXPENSE	
AMORTIZATION EXPENSE	-1,101,717							AMORTIZATION EXPENSE	
CUSTOMER OPERATING EXPENSE	-626,551	-626,551	-644510	-663845.3	-683760.66	-704273.48	-725401.68	CUSTOMER OPERATING EXPENSE	
CORPORATE OPERATING EXPENSE	-402,393	-402,393	-477760	-492092.8	-506855.58	-522061.25	-537723.09	CORPORATE OPERATING EXPENSE	
TOTAL OPERATING EXPENSE	-5,445,711	(4,343,994)	(4,633,148)	(4,749,457)	(4,867,791)	(4,989,675)	(5,115,215)	TOTAL OPERATING EXPENSE	
STATE INCOME TAXES	97,358								
FEDERAL INCOME TAXES	431,994								
OTHER TAXES	-99,264								
TOTAL OPERATING TAXES	430,088								
INTEREST ON FUNDED DEBT	-959,103								
OTHER INTEREST EXPENSE	-194								
TOTAL FIXED CHARGES	-959,297								
NONOPERATING INCOME & EXPENSES	207,079								
NONOPERATING TAXES	-552,114								



Missouri Valley Communications			
MIDCO Resale Customers LD PIC			
As of 4/8/08			
MIDCO # OF PIC'D TO:			
NAME	CIC	INTER	INTRA
VERIZONBUSINESS	222 & 0555	22	21
AT&T	288	10	10
SPRINT	333	2	2
MIDCO	338	9	1
QWEST	432	12	12
McLEOD	725	0	0
EXCEL	752	2	2
SRT	770	1	1
VARTEC	811	2	1
MIDCO	996	1385	1395
NDLD	5365	12	12
TOTALS AS OF 4/8/2008		1457	1457
			<u>Total</u>
Midco LD		1394	1396
Other Carriers		63	61

Missouri Valley Communications					
Midcontinent CABS Switch Access					
March 2008					
	Total			Intrastate	Midco
	Billed	Interstate	Intrastate	Percent	LD Subs
March 2008	5,103.99	2,715.26	2,388.73	47%	1395
Monthly Intrastate SW Access per Midco LD Sub					\$ 1.71
Annualized Intrastate SW Access per Midco LD Sub					\$ 20.55

Missouri Valley Communications		
Special Access Analysis		
<u>Ckt Equiv Revenue</u>		
MVC Circuit Equivalents*		19,768
2007 Spec Access Rev	\$	1,895,179
Annual Rev per Ckt Equiv	\$	95.87
<u>Ckt Equiv Growth</u>		
MVC 2006 Spec Access Rev	\$	1,754,387
MVC 2007 Spec Access Rev	\$	1,895,179
MVC Rev Growth %		8.0%
(Assume Midco Ckt Equiv will grow annually by this rate)		
<u>Circuit Equivalent Examples</u>		
OC3 = 2016		
DS3 = 672		
DS1 = 24		
Trunk = 1		
56k = 1		
2Wire = 1		

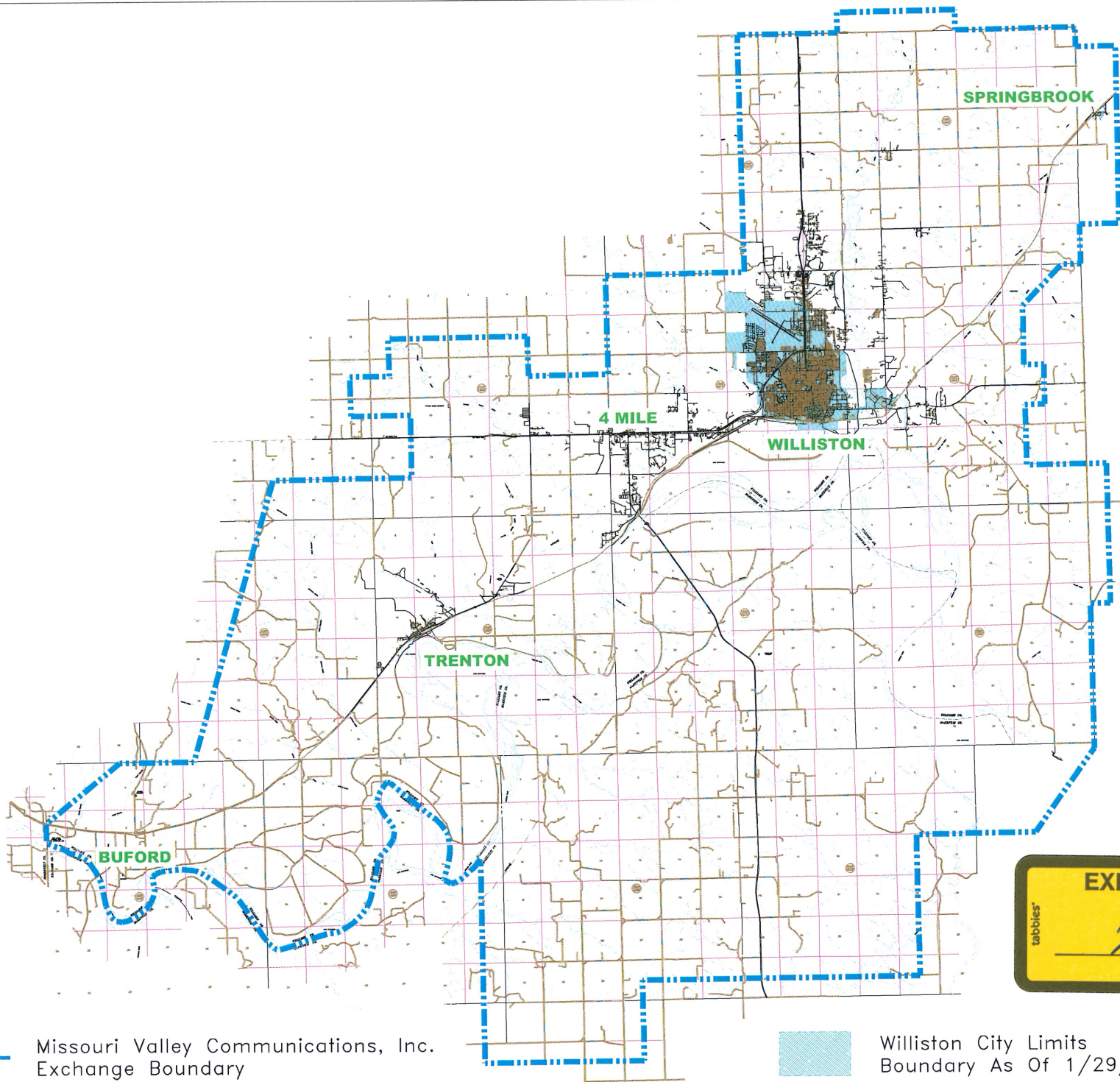
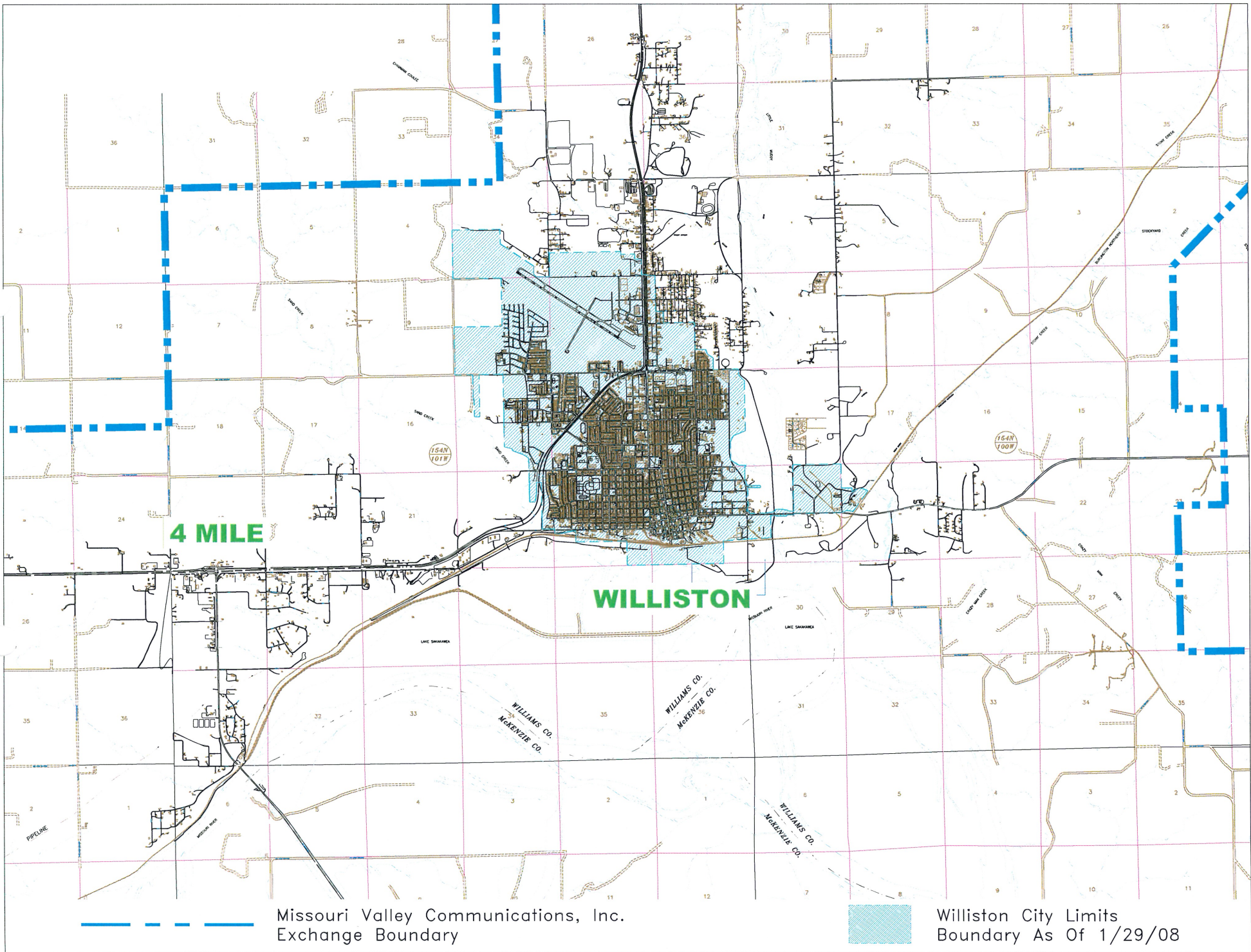


EXHIBIT
tabbles®
2

--- Missouri Valley Communications, Inc.
Exchange Boundary

Williston City Limits
Boundary As Of 1/29/08



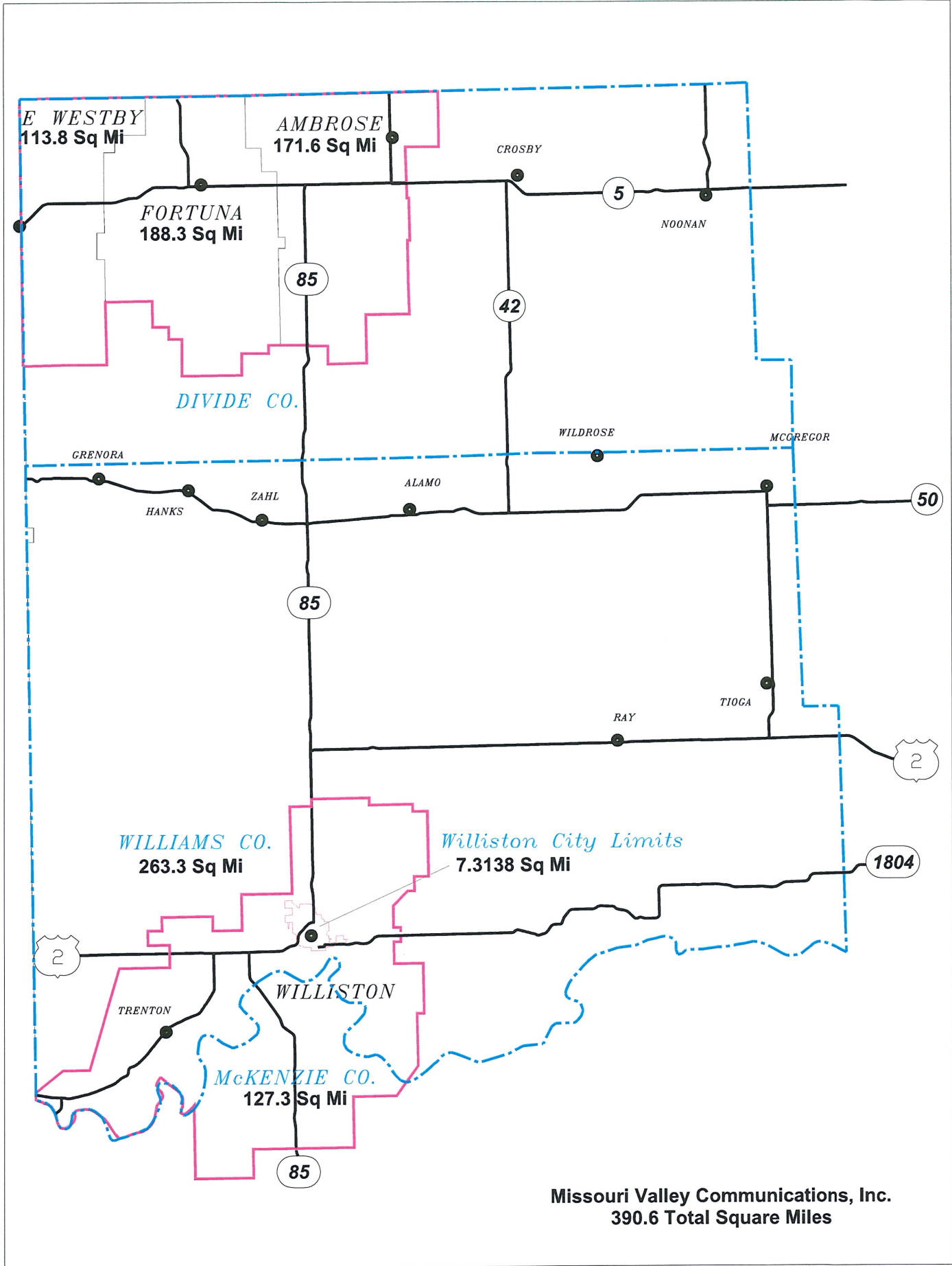
4 MILE

WILLISTON

Missouri Valley Communications, Inc.
Exchange Boundary



Williston City Limits
Boundary As Of 1/29/08



Missouri Valley Communications, Inc.
390.6 Total Square Miles