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PATRICK W. DURICK

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May 29, 2008

RECEIVED

MAY 29 2008

PUBLIC SERVICE COMMISSION

HAND DELIVERED

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

Re: Midcontinent Communications/Consolidated Telcom
Midcontinent communication's Petition for Arbitration
PU-08-___

Dear Illona:

Enclosed for filing are the original and seven copies of MIDCONTINENT COMMUNICATION'S PETITION FOR ARBITRATION.

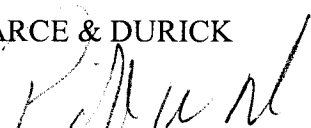
This document is also being transmitted electronically to your office. Also enclosed is an extra copy of the petition to be filed stamped and returned in the self-addressed, stamped envelope.

Thank you for your attention to this matter.

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

Sincerely,

PEARCE & DURICK


Patrick W. Durick

Counsel to Midcontinent Communications

PWD/ak

Enclosures

cc: Michael Maus (via email)
Val Wilmer (via email)
William Binek (via email)
Mary Lohnes (via email)
J.G. Harrington (via email)
Nancy Vogel (via email)

1 PU-08-225 Filed: 5/29/2008 Pages: 7
Petition for Arbitration

Midcontinent Communications

Pearce & Durick, Patrick Durick

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF:

Case No. PU-08- 225

| | |
|--------------------------------|---|
| Midcontinent Communications, a |) |
| South Dakota Partnership, |) |
| |) |
| Complainant, |) |
| |) |
| vs. |) |
| |) |
| Consolidated Telcom, |) |
| |) |
| Respondent. |) |

MIDCONTINENT COMMUNICATION’S PETITION FOR ARBITRATION

Pursuant to 47 U.S.C. § 252(b) and Chapter 69-02-10, North Dakota Administrative Code Midcontinent Communications (“Midcontinent”) hereby petitions the North Dakota Public Service Commission to arbitrate the open issues on a facilities based interconnection agreement between Midcontinent and Consolidated Telcom (“Consolidated”). The open issues are listed on the attached Summary of Outstanding Issues for Arbitration marked as Exhibit “A” and attached hereto.

47 U.S.C. § 252(b)(1) provides that between the 135th and the 160th days after the date on which an incumbent local exchange carrier receives a bona fide request for interconnection, services, or network elements the party requesting those items may petition a State commission to arbitrate any open issues. By letter dated January 9, 2008 Midcontinent requested from Consolidated,

“[A]n interconnection agreement with Consolidated Telcom (“Consolidated”) for the purpose of facilities based interconnection, the exchange of traffic, number portability and other customary arrangements between incumbent telephone companies such as Consolidated and competitive local exchange carriers such as

Midcontinent for the Hettinger, South Heart, Reeder, Dodge and Scranton, North Dakota exchanges.” See January 9, 2008, letter attached hereto and marked as Exhibit “B”.

Consolidated Telcom received Midcontinent’s January 9th proposal on January 10th, 2008, and Thursday, May 29, 2008, is the 140th day since the proposal was received by Consolidated.

CONTACT INFORMATION FOR CONSOLIDATED.

The contact information for Mr. Paul Schuetzler, General Manager, Consolidated Telcom and Mr. Michael Maus, the attorney for Consolidated Telcom is:

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PARTICIPANTS IN NEGOTIATIONS.

It is anticipated that the following persons will participate as representatives of the parties:

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SUMMARY OF NEGOTIATION

The Parties are presently involved in an arbitration for a facilities based interconnection agreement for the Mott, Killdeer, Halliday, Bowman & Richardton exchanges of Consolidated. Many of the terms of a proposed agreement for these exchanges have been successfully negotiated and the parties are continuing to negotiate as well as participate in arbitration for these exchanges. The issues for a facilities based interconnection agreement for the Mott, Killdeer, Halliday, Bowman & Richardton exchanges are the same as the issues for a facilities based interconnection agreement for the Hettinger, South Heart, Reeder, Dodge and Scranton, North Dakota exchanges.

UNRESOLVED ISSUES and POSITIONS OF THE PARTIES

A summary of the positions of the parties and the presently unresolved issues for the facilities based interconnection agreement between Midcontinent and Consolidated for the Hettinger, South Heart, Reeder, Dodge and Scranton, North Dakota exchanges are listed on Exhibit A hereto.

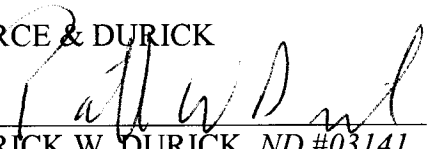
RELEVANT DOCUMENTATION

The parties have successfully negotiated a wholesale/resale agreement for the Mott, Killdeer, Halliday, Bowman, Richardton, Hettinger, South Heart, Scranton, Dodge and Reeder exchanges of Consolidated and are now in arbitration for a General Terms and Conditions; Pre-Ordering, Ordering, Provisioning, Maintenance and Repair

Attachment; Number Portability Attachment; Interconnection Attachment; Ancillary Services Attachment and Pricing Attachment for those exchanges.

Dated this 29th day of May, 2008.

PEARCE & DURICK



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Individually and as a Member of the Firm
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Attorneys for Midcontinent Communications

EXHIBIT A

MIDCONTINENT-CONSOLIDATED ARBITRATION ISSUES

MAY 29, 2008

1. **Last Mile Providers** – Consolidated and Midcontinent cannot agree on whether exchange of traffic generated by Last Mile Providers that are not under common control with Midcontinent should be addressed in various sections of the interconnection agreement or should not be prohibited under this agreement and addressed, if at all, in a separately negotiated agreement.
2. **Pricing** – Consolidated and Midcontinent have not agreed on the prices or rates that Consolidated will charge Midcontinent for providing various services and the use of Consolidated's facilities.
3. **Common Carrier Representations** – Consolidated and Midcontinent have not agreed on whether the agreement should contain terms relating to Midcontinent's operations as a common carrier.
4. **Intellectual Property** – Consolidated and Midcontinent have not agreed on (a) the extent to which Midcontinent will indemnify Consolidated for intellectual property claims relating to facilities and services provided by Consolidated to Midcontinent; and (b) the terms under which each party may use trademarks and similar rights granted to the other party.
5. **Franchise Reporting and Fees** – Consolidated and Midcontinent have not agreed on language concerning franchise-related obligations of the parties.
6. **Operations Handbooks** – Consolidated and Midcontinent have not agreed on the terms governing the use of each party's operations handbook under the agreement.
7. **Network Interface Devices** – Consolidated and Midcontinent have not agreed on the terms governing devices that connect customer wiring and the provider's network where fiber to the home has been installed.
8. **Service Orders** – Consolidated and Midcontinent have not agreed on (a) the standards that will govern the formats for service orders; (b) the procedures governing unauthorized changes in service; and (c) the procedures governing local service freezes.
9. **Coordinated Cutovers** – Consolidated and Midcontinent have not agreed on the terms governing confirmation and failure to complete coordinated cutovers from one carrier to another.
10. **911 Trunks** – Consolidated and Midcontinent have not agreed on the terms governing purchase of 911 trunks by Midcontinent.
11. **Foreign Exchange Service** – Consolidated and Midcontinent have not agreed on the requirements governing foreign exchange service.
12. **Collocation** – Consolidated and Midcontinent have not agreed on the safety requirements for equipment placed in collocation cages.