



ATTORNEYS AT LAW

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PATRICK W. DURICK

pwd@pearce-durick.com

May 12, 2010

RECEIVED

MAY 12 2010

PUBLIC SERVICE COMMISSION

VIA HAND DELIVERY

Darrell Nitschke
Executive Director
North Dakota Public Service Commission
Capitol
600 East Boulevard, 12th Floor
Bismarck, North Dakota 58505

Re: Midcontinent Communications/Turtle Mountain Communications, Inc.
Rural Exemption Investigation – Willow City, Dunseith and Bisbee Exchanges

Dear Mr. Nitschke:

Enclosed for filing herewith is an original and seven copies of a **NOTICE OF BONA FIDE REQUEST FOR SERVICES**.

We are also electronically filing this document with the Commission.

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

Sincerely,

PEARCE & DURICK



PATRICK W. DURICK

Counsel to Midcontinent Communications

PWD/ak

Enclosures

cc: Mary Lohnes (via email)
Valerie Wimer (via email)
Kenneth Carlson (via email)

1

PU-10-157 Filed: 5/12/2010 Pages: 8

Notice of Bona Fide Request for Services &
Interconnection - Request for Rural Exemption
Determination

Midcontinent Communications

Patrick Durick, Midcontinent Comm.

STATE OF NORTH DAKOTA

PUBLIC SERVICE COMMISSION

Case No. _____

Midcontinent Communications, a)
South Dakota Partnership,)
)
Complainant,)
)
vs.)
)
Turtle Mountain Communications, Inc.)
)
Respondent.)

NOTICE OF BONA FIDE REQUEST FOR SERVICES

Pursuant to 47 U.S.C. §251(f)(1)(B), Midcontinent Communications, a South Dakota Partnership (“Midcontinent”) hereby provides notice that by letters dated April 16, 2010 and April 23, 2010, copies of which are marked as Exhibits “A” and “A1” respectively and attached hereto, it made bona fide requests for wholesale resale of telecommunications services that Turtle Mountain Communications, Inc. (“Turtle Mountain”) provides at retail to subscribers who are not telecommunications carriers for the Willow City, Dunseith and Bisbee, North Dakota, exchanges and also for an interconnection agreement with Turtle Mountain for the purpose of facilities-based interconnection, the exchange of traffic, number portability and other customary arrangements between incumbent telephone companies such as Turtle Mountain and competitive CLECs such as Midcontinent for those exchanges under the provisions of 47 U.S.C. §251(c).

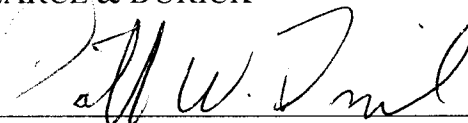
By letter dated April 30, 2010, marked as Exhibit B and attached hereto, Valerie Wimer, an agent for Turtle Mountain, advised Midcontinent that it would not claim the rural exemption status provided by 47 U.S.C. § 251(f)(1)(A) within the incorporated areas of Willow City and Dunseith after January 1, 2011. Midcontinent wishes to begin providing telecommunications services to Willow City and Dunseith prior to January 1, 2011 and the delay suggested by Turtle Mountain is for the purpose of gaining a competitive advantage and is not justified under the

provisions for the rural exemption, 47 U.S.C. § 251(f)(1)(A). By letter dated April 23, 2010, marked as Exhibit A1 and attached hereto, Midcontinent requested that Turtle Mountain advise Midcontinent by May 7, 2010 that Turtle Mountain would waive its rural exemption for the Bisbee, North Dakota exchange. Turtle Mountain has not responded to this request and Midcontinent assumes that in order to gain a competitive advantage Turtle Mountain will not agree to waive its rural exemption for the Bisbee exchange.

WHEREFORE, Midcontinent requests that pursuant to the provisions of 47 U.S.C. §251(f)(1)(B), this agency conduct an inquiry for the purpose of determining whether Midcontinent's request for wholesale resale of telecommunications services that Turtle Mountain provides at retail to subscribers who are not telecommunications carriers for the Willow City, Dunseith and Bisbee, North Dakota, exchanges and also for interconnection agreements with Turtle Mountain for the purpose of facilities-based interconnection, the exchange of traffic, number portability and other customary arrangements between incumbent telephone companies such as Turtle Mountain and competitive CLECs such as Midcontinent for those exchanges under 47 U.S.C. §251(c) is not unduly economically burdensome, is technically feasible, and is consistent with section 254 of Title 47 U.S.C. (other than subsections (b)(7) and (c)(1)(D) of Section 254 of that Title).

Dated this ~~21~~²¹th day of May, 2010.

PEARCE & DURICK



PATRICK W. DURICK ND #03141

Individually and as a Member of the Firm

314 E. Thayer Avenue

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Attorneys for Midcontinent Communications, Inc.



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PATRICK W. DURICK

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April 16, 2010

By Certified Mail, Cert No. 7004 1360 0002 4901 7078

Kenneth Carlson, Manager
Turtle Mountain Communications, Inc.
411 7th Avenue
Langdon, ND 58249

Re: Request for Interconnection Agreements
Section 251(c)(4)(A) Wholesale Resale and Section 251(c)(2) Facilities Based
Midcontinent Communications
Willow City, Dunseith and North Dakota Exchanges.

Dear Mr. Carlson:

I am writing on behalf of Midcontinent Communications ("Midcontinent"). The purpose of this letter is to request from Turtle Mountain Communications, Inc. ("Turtle Mountain") an agreement for wholesale resale of telecommunications services that Turtle Mountain provides at retail to subscribers who are not telecommunications carriers for the Willow City and Dunseith, North Dakota, exchanges and also for an interconnection agreement with Turtle Mountain for the purpose of facilities-based interconnection, the exchange of traffic, number portability and other customary arrangements between incumbent telephone companies such as Turtle Mountain and competitive CLECs such as Midcontinent for those exchanges.

This request is made under the provisions of Sections 251(c)(4)(A) and 251(c)(2) of the Act, 47 U.S.C. §§251(c)(4)(A) and 251(c)(2), and is intended to trigger the time periods for negotiation and arbitration under Section 252 of the Act.

We would appreciate confirmation in writing that Turtle Mountain will not be relying on the rural exemption contained in 47 U.S.C § 251(f)(1)(A). If we have not received written confirmation of Turtle Mountain's waiver by Friday, April 30, 2010, it is

EXHIBIT A

Mr. Kenneth Carlson
April 16, 2010
Page 2

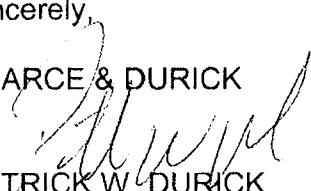
Midcontinent's intention to file notice of this Bona Fide Request pursuant to 47 U.S.C § 251(f)(1)(B).

Midcontinent proposes that the Willow City and Dunseith exchanges be added to the Interconnection Agreement for the Bottineau, Rolette and Rolla exchanges.

Please contact me if you have any questions on these matters.

Sincerely,

PEARCE & DURICK



PATRICK W. DURICK

PWD/ak

cc: Mary Lohnes
J. G. Harrington, Esq.
Nancy Vogel



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PATRICK W. DURICK

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April 23, 2010

By Certified Mail, Cert No. 7004 1350 0002 4901 7085

Kenneth Carlson, Manager
Turtle Mountain Communications, Inc.
411 7th Avenue
Langdon, ND 58249

Re: Request for Interconnection Agreements
Section 251(c)(4)(A) Wholesale Resale and Section 251(c)(2) Facilities Based
Midcontinent Communications
Bisbee, North Dakota Exchange.

Dear Mr. Carlson:

I am writing on behalf of Midcontinent Communications ("Midcontinent"). The purpose of this letter is to request from Turtle Mountain Communications, Inc. ("Turtle Mountain") an agreement for wholesale resale of telecommunications services that Turtle Mountain provides at retail to subscribers who are not telecommunications carriers for the Bisbee, North Dakota, exchange and also for an interconnection agreement with Turtle Mountain for the purpose of facilities-based interconnection, the exchange of traffic, number portability and other customary arrangements between incumbent telephone companies such as Turtle Mountain and competitive CLECs such as Midcontinent for those exchanges.

This request is made under the provisions of Sections 251(c)(4)(A) and 251(c)(2) of the Act, 47 U.S.C. §§251(c)(4)(A) and 251(c)(2), and is intended to trigger the time periods for negotiation and arbitration under Section 252 of the Act.

We would appreciate confirmation in writing that Turtle Mountain will not be relying on the rural exemption contained in 47 U.S.C § 251(f)(1)(A). If we have not received written confirmation of Turtle Mountain's waiver by Friday, May 7, 2010, it is

EXHIBIT A1

Mr. Kenneth Carlson
April 23, 2010
Page 2

Midcontinent's intention to file notice of this Bona Fide Request pursuant to 47 U.S.C § 251(f)(1)(B).

Midcontinent proposes that the .Bisbee exchange be added to the Interconnection Agreement for the Bottineau, Rolette and Rolla exchanges as amended for the Dunseith and Willow City exchanges.

Please contact me if you have any questions on these matters.

Sincerely,

PEARCE & DURICK



PATRICK W. DURICK

PWD/ak

cc: Mary Lohnes
J. G. Harrington, Esq.
Nancy Vogel



6315 Seabrook Road Seabrook, Maryland 20706
phone: 301-459-7590, fax: 301-577-5575
internet: www.jsitel.com, e-mail: jsi@jsitel.com

April 30, 2010

Patrick Durick
Pearce & Durick
314 East Thayer Avenue
PO Box 400
Bismarck, ND 58502

Mr. Durick;

This letter is in response to your April 16, 2010 letter requesting interconnection for the Willow City and Dunseith exchanges within North Dakota.

Turtle Mountain has a rural exemption in the requested exchanges. Turtle Mountain will not exert its rural exemption status after January 1, 2011 within the incorporated areas of both the Willow City and Dunseith exchanges.

If the January 1, 2011 date is acceptable, then these exchanges could be added to the existing agreement via an amendment. The Amendment would need to be negotiated to include any accommodations required specific to these exchanges.

If you have any questions, please contact me regarding these matters.

Sincerely,

Valerie Wimer
Vice President
vwimer@jsitel.com



MAY 2010
RECEIVED BY
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