



Public Service Commission

State of North Dakota

COMMISSIONERS

Kevin Cramer
Tony Clark
Brian P. Kalk

Executive Secretary
Darrell Nitschke

Mr. Allen C. Hoberg
Office of Administrative Hearings
1707 North 9th Street, Lower Level
Bismarck, ND 58501

Re: Turtle Mountain Communications / Midcontinent Communications
Rural Exemption Investigation
Case No. PU-10-157

Dear Mr. Hoberg:

Enclosed is a request for an Administrative Law Judge in the captioned case. A hearing will begin Wednesday, August 4, 2010, at the Commission Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota, starting at 9:00 a.m. Central Time. A copy of the Notice of Hearing is enclosed.

The Administrative Law Judge will serve as a procedural law judge and the hearing will be electronically recorded.

If you have any questions, please contact me. Thank you.

Best regards,

Illona A. Jeffcoat-Sacco
General Counsel

enclosure
c: w/encl. Patrick Durick
Kenneth Carlson



REQUEST FOR ADMINISTRATIVE LAW JUDGE--APPEAL, APPLICATION, OR PETITION
 NORTH DAKOTA OFFICE OF ADMINISTRATIVE HEARINGS
 SFN 17819 (Rev. 03-2001)

Name of Agency, Board, or Commission
 North Dakota Public Service Commission

The above named agency, board, or commission requests designation of an administrative law judge from the Office of Administrative Hearings for the Turtle Mountain Communications / Midcontinent Communications Rural Exemption Investigation
 Case No. PU-10-157

(e.g., application of [name], appeal of [name], petition of [name]). Authority for the administrative action is found in North Dakota Century Code Chapter 49-21 _____ (North Dakota Century Code and/or North Dakota Administrative Code).

Please attach related documents and correspondence.

The administrative action is more fully described as follows:
 Midcontinent requests that the Commission conduct an inquiry for the purpose of determining whether to terminate the Turtle Mountain's exemption from providing its services for resale.

It requests designation of an administrative law judge (please check one):

- To conduct the hearing and issue recommended findings of fact, conclusions of law, and order.
- To serve as a procedural administrative law judge only (no recommended decision). The agency head will be present at the hearing as required by NDCC 54-57-04(6).
- To conduct the hearing, issue findings of fact, conclusions of law, and a final order.

PLEASE MAKE A REQUEST FOR AN ADMINISTRATIVE LAW JUDGE AT LEAST ONE MONTH BEFORE THE HEARING.

Please list parties, including the agency if it is a Party, and Representation [attorney (or other)] if known, or Agency Contact: (Attach separate list if necessary.)

AGENCY See Attached	Address	Telephone Number
Representation	Address	Telephone Number
PARTY	Address	Telephone Number
Representation	Address	Telephone Number
PARTY	Address	Telephone Number
Representation	Address	Telephone Number

Additional Comments
 A hearing will begin Wednesday, August 4, 2010, at the Commission Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota, starting at 9:00 a.m. Central Time.

(For agencies required to use OAH, notice of hearing will be issued by the administrative law judge, unless a procedural administrative law judge is requested. Other requesting agencies and agencies requesting a procedural administrative law judge should first contact OAH about scheduling a hearing. If notice has already been issued, attach a copy of the notice.)

Typed or Printed Name and Title of Requesting Person Ilona A. Jeffcoat-Sacco, General Counsel	Date 18 June 2010
Signature of Requesting Person X <i>Ilona A. Jeffcoat-Sacco</i>	Telephone Number 701-328-2407

Attachment
 Request for ALJ
 18 June 2010

Turtle Mountain Communications / Midcontinent Communications
 Rural Exemption Investigation
 Case No. PU-10-157

AGENCY	Address	Telephone Number
North Dakota Public Service Commission	600 E. Blvd. Ave. Dept. 408 Bismarck, ND 58505-0480	701-328-2400
Representation Illona A. Jeffcoat-Sacco General Counsel	Address Same as above	Telephone Number 701-328-2407
PARTY Midcontinent Communications	Address 410 S. Phillips Ave. Sioux Falls, SD 57104-6824	Telephone Number 605-334-1200
Representation Patrick Durick, Attorney	Address Pearce & Durick PO Box 400 Bismarck ND 58502-0400	Telephone Number 701-223-2890
PARTY Turtle Mountain Communications, Inc. Contact Name: Kenneth Carlson, Manager	Address 411 7 th Avenue P.O. Box 729 Langdon, ND 58249	Telephone Number 701-256-5156
Representation None designated	Address	Telephone Number
PARTY	Address	Telephone Number
Representation	Address	Telephone Number

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

**Midcontinent Communications/Turtle Mountain
Communications, Inc.
Rural Exemption
Investigation**

Case No. PU-10-157

NOTICE OF HEARING

June 16, 2010

On May 12, 2010, Midcontinent Communications (Midcontinent) filed notice with the Commission that Midcontinent had by letters dated April 16, 2010 and April 23, 2010 made bona fide requests under 47 U.S.C. § 251(c) for wholesale resale of telecommunications services for the Willow City, Dunseith and Bisbee, North Dakota exchanges from Turtle Mountain Communications, Inc. (Turtle Mountain).

Under 47 U.S.C. § 251(f)(1)(A) a rural telephone company is exempt from the requirements of Section 251(c) until it receives a bona fide request and until the state commission determines that the exemption should be terminated.

Midcontinent requests that the Commission conduct an inquiry for the purpose of determining whether to terminate the Turtle Mountain's 47 U.S.C. § 251(f)(1)(A) exemption from providing its services for resale.

Under 47 U.S.C. § 251(f) the Commission must conduct an inquiry and within 120 days after receiving notice of a bona fide request, must decide whether to terminate the exemption.

A public hearing has been scheduled for August 4, 2010 at 9 a.m. (CST) in the Commission Hearing Room, 12th Floor, State Capitol, Bismarck, North Dakota.

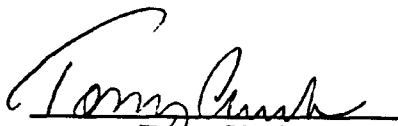
The issues to be considered in this matter are:

1. Whether the request of Midcontinent is unduly economically burdensome.
2. Whether the request of Midcontinent is technically feasible.
3. Whether the request of Midcontinent is consistent with 47 U.S.C. § 254 (other than subsections (b)(7) and (c)(1)(D) thereof).
4. The implementation schedule for compliance with the request should the exemption be terminated.
5. If Turtle Mountain's exemption under 47 U.S.C. § 251(f)(1)(A) is terminated, whether the exemption is to be terminated for the whole company.

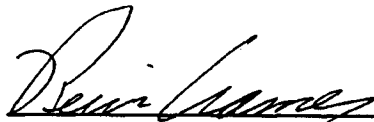
6. If Turtle Mountain's exemption under 47 U.S.C. § 251(f)(1)(A) is terminated, whether the exemption is to be terminated for all services required under 47 U.S.C. § 251(c).

For more information contact the Public Service Commission, State Capitol, Bismarck, North Dakota 58505, 701-328-2400 or 877-245-6685; or Relay North Dakota 1-800-366-6888 TTY. If you require any auxiliary aids or services, such as readers, signers, or Braille materials please contact the Commission at least 24 hours in advance.

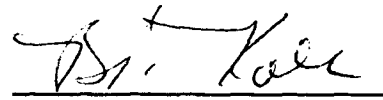
PUBLIC SERVICE COMMISSION



**Tony Clark
Commissioner**



**Kevin Cramer
Chairman**



**Brian P. Kalk
Commissioner**