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March 14, 2012

RECEIVED

MAR 14 2012

PUBLIC SERVICE COMMISSION

Hand Delivered

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

Re: Midcontinent Communications v. Missouri Valley Communications, Inc.
PU-11-697

Dear Mr. Nitschke:

Enclosed for filing are the original and seven copies of a chart of open issues in the above-referenced proceeding that has been prepared by Midcontinent.

This document is also being transmitted electronically to your office. Also enclosed is an extra copy to be file 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

Zachary E. Pelham
Counsel to Midcontinent Communications

ZEP/ak
Enclosures

cc: David J. Hogue
Patrick J. Ward

33 **PU-11-697** Filed: 3/14/2012 Pages: 10
Submission of List of Open Issues in Arbitration

Midcontinent Communications
Zachary Pelham

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

IN THE MATTER OF

Midcontinent Communications, a)	
South Dakota Partnership,)	Case No. PU-11-543
)	
Complainant,)	
)	
vs.)	
)	
Missouri Valley Communications, Inc.)	
)	
Respondent.)	

SUBMISSION OF LIST OF OPEN ISSUES IN ARBITRATION

Midcontinent Communications (“Midcontinent”), by its attorneys, hereby submits its list of open issues in the arbitration in the above-referenced proceeding. This list modifies the list of issues submitted with Midcontinent’s petition for arbitration (the “Petition”) based on the response to the Petition by Missouri Valley Communications, Inc. (“Missouri Valley”), filed on December 8, 2011, and on Missouri Valley’s response to Midcontinent’s draft interconnection agreement, which was provided to Midcontinent and the arbitrator in this proceeding on February 28, 2012.

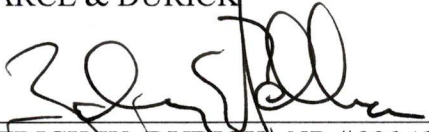
On the attached chart, issues that Midcontinent believes remain open are indicated by yellow highlighting in the second and third column. Issues that Midcontinent believes are resolved are not highlighted.

Midcontinent will continue to seek to resolve the remaining issues in this proceeding during the time remaining before the arbitration and reserves the right to modify this list if issues

are resolved or if it becomes apparent that issues that appeared to be resolved have not been resolved.

Dated: March 14, 2012

PEARCE & DURICK



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/s/ J.G. Harrington

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**Midcontinent-Missouri Valley Arbitration
Summary of Outstanding Issues**

March 14, 2012

Remaining open issues are highlighted in yellow.

Issue	Midcontinent Position	Missouri Valley Position	Midcontinent Response
General terms and conditions	Midcontinent proposes that the parties adopt the general terms and conditions in their current resale agreement.	Missouri Valley proposes to accept the proposed general terms and conditions with the following changes: 1. Modification of the language in Sections 1.1 and 2.2 to base the effective date on the parties' right to bring an action in federal District Court to challenge the agreement's conformity to Sections 251 and 252. 2. Modification of Section 1.2 to limit the agreement to the exchange of local telecommunications traffic. 3. Correction of Section 4 to replace the definition of "Agreement" with a reference to the interconnection agreement.	1. Effective date: The effective date should be delayed only to the extent that a party obtains a stay from the PSC or the court. 2. Limitation to local traffic: The agreement should include ISP-bound traffic. 3. Correction of definition: Accepted.
Other terms and conditions of interconnection and number portability	Terms and conditions for interconnection and number portability can be based on existing facilities-based interconnection agreements between Midcontinent and other North Dakota rural incumbent local exchange carriers, such as Midcontinent's agreement	Missouri Valle proposes to accept Midcontinent's proposed terms and conditions for interconnection and number portability with the following changes: 1. Modification of the language in Section 1.1 of the Interconnection Attachment to limit the agreement to the exchange of local traffic within the Williston exchange. 2. Addition of language to the Interconnection Attachment (new Section	1. Limitation to local traffic: The agreement should include ISP-bound traffic. 2. Impasses: Midcontinent does not accept this change. 3. Compensation for transport: Midcontinent accepts this proposal. 4. Responsibility for disconnection: There should be

Issue	Midcontinent Position	Missouri Valley Position	Midcontinent Response
	with Turtle Mountain Communications, Inc. <i>See</i> Docket No. PU-10-20.	<p>2.2) to indicate that impasses concerning changes to interconnection are not subject to dispute resolution provisions of the general terms and conditions.</p> <p>3. Modifying the language in Sections 3.1.4 and 3.1.5 of the Interconnection Attachment concerning compensation for transport of traffic to indicate that all transport costs from the point of interconnection to a Midcontinent switch located outside the exchange boundaries will be Midcontinent’s responsibility.</p> <p>4. Adding a new Section 3.1.5 to the Pre-Ordering Attachment to specify that a party’s obligation for service transitions is limited to disconnecting its service to its customers, and providing that conflicts in scheduling will be resolved in favor of attending to continuing customers.</p> <p>5. Modifying the pricing attachment to add a reference to tariffed rates and to permit a provider to change rates for other services at its discretion, subject to price discrimination rules.</p>	<p>language concerning the soon-to-be-former carrier’s number portability obligations.</p> <p>5. Pricing: Midcontinent accepts changes as to tariffed services. Pricing should be set in the attachment for non-tariffed services, and should not be subject to change at a party’s discretion.</p>
Technical interconnection requirements	Midcontinent proposes that the parties interconnect using either electrical facilities (DS-1 or DS-3) or optical facilities.	Missouri Valley proposes using electrical facilities at the DS-1 level.	Midcontinent accepts Missouri Valley’s proposal.
Point of interconnection	Midcontinent proposes that the parties interconnect within the Williston	Missouri Valley proposes interconnection at the Missouri Valley switch.	Midcontinent accepts Missouri Valley’s proposal.

Issue	Midcontinent Position	Missouri Valley Position	Midcontinent Response
	exchange at a mutually-agreed point between Missouri Valley's switch and Midcontinent's headend or at any point in the exchange where Missouri Valley interconnects with another carrier (<i>i.e.</i> , wireless carriers or interexchange carriers).		
Reciprocal compensation	Midcontinent proposes that the parties adopt bill and keep for reciprocal compensation for local traffic.	<p>Missouri Valley proposes adopting the following approach:</p> <p>a. Reciprocal compensation only for local/EAS traffic (and not for ISP-bound traffic).</p> <p>b. Compensation level set at \$0.030249/minute.</p> <p>c. Compensation to be paid unless traffic is within a 55/45 ratio.</p> <p>d. If traffic is within the 55/45 ratio for three consecutive months, then a party may request elimination of per minute billing, and consent will not be unreasonably withheld.</p> <p>e. If, after elimination of per minute billing, if traffic falls outside 55/45 for six consecutive months, either party may request a return to per minute compensation, and consent will not be unreasonably withheld.</p> <p>f. If, after a return to per minute compensation, traffic returns to the 55/45 ratio for three months, it will return to no</p>	<ol style="list-style-type: none"> 1. Midcontinent will accept the concept of a collar within which compensation is not paid, and will accept the general process proposed by Missouri Valley. 2. Midcontinent proposes that the collar be set at 60/40, not 55/45. 3. Midcontinent does not accept access rates as the rates for reciprocal compensation. If not set at bill and keep, the rates should be set under Section 252(d)(2). 4. Any reciprocal compensation rate must be subject to the FCC's rules for intercarrier compensation. 5. The agreement should include provisions for compensation for ISP-bound traffic, either bill and keep or at the \$0.0007 per minute rate set

Issue	Midcontinent Position	Missouri Valley Position	Midcontinent Response
		billing and shall not thereafter be subject to reinstatement.	by the FCC.
Number portability	Midcontinent proposes that the parties provide service provider number portability to each other in accordance with the terms under which Missouri Valley provides number portability to wireless carriers or, alternatively, in accordance with the requirements of the FCC's rules.	Missouri Valley accepts Midcontinent's terms for number portability, as described in the proposed interconnection agreement.	No response required.
Compensation for non-local traffic	Midcontinent proposes that arrangements for non-local traffic exchanged by the parties remain the same as today, to the extent those arrangements are consistent with the requirements of the FCC and the Commission. (For purposes of clarity, Midcontinent is not requesting any change in these arrangements, but recognizes that either the FCC or the Commission may change the relevant rules in the future, in which case the amounts or other terms of compensation would be changed.)	Missouri Valley proposes to delete Section 3.2.2 of the Interconnection Attachment, which concerns compensation for access traffic.	Midcontinent accepts this change.

Issue	Midcontinent Position	Missouri Valley Position	Midcontinent Response
Date of interconnection	Midcontinent proposes that interconnection be completed within 60 days of the date that a final interconnection agreement is approved by the Commission.	Missouri Valley agrees to a 60-day period, but seeks to have it commence after any judicial review becomes final.	The effective date of the agreement should not be affected by judicial review unless a stay is issued.
Transition from current resale arrangements	<p>(1) Midcontinent proposes a one year transition period, starting with date interconnection is put into effect. Over that time, Midcontinent resale customers would be switched to Midcontinent’s facilities on a schedule that would switch an equal number of customers each week, subject to any mutually-agreed modifications.</p> <p>(2) Midcontinent proposes to provide transitional financial assistance to Missouri Valley. Under that arrangement, Midcontinent would pay 75% of the access charges attributable to each customer switched from resale to facilities-based service (based on average access charges per customer) to Missouri Valley for a</p>	<p>(1) Missouri Valley agrees to a one-year transition period. It does not specify that it agrees to switching an equal number of customers per week.</p> <p>(2) Missouri Valley agrees to payment of 75% of access charges over a six-month period, based on an individual calculation of each customer’s access charges. The parties will exchange information needed to determine the specific amounts.</p>	<p>(1) Midcontinent seeks to ensure that the transition will cover an equal number of customers each week.</p> <p>(2) Midcontinent proposes to set the per-customer transition payments at the start of the transition process, so as to avoid the need to make individual customer calculations.</p>

Issue	Midcontinent Position	Missouri Valley Position	Midcontinent Response
	<p>period of six months after the change occurs. To the extent that Missouri Valley's access charges are reduced by rules adopted by the FCC or the Commission during the transition period, those reductions would be reflected in the transitional financial assistance as well.</p>		

STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

IN THE MATTER OF)	
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Midcontinent Communications, a)	
South Dakota Partnership,)	Case No. PU-11-697
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Complainant,)	
)	
vs.)	
)	
Missouri Valley Communications, Inc.)	
)	
Respondent.)	

AFFIDAVIT OF MAILING

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

Annette Kirschenheiter, being first duly sworn, deposes and says that on the 14th day of March, 2012, she mailed copies of the foregoing Submission of List of Open Issues In Arbitration by placing a true and correct copy thereof in an envelope, addressed to the following:

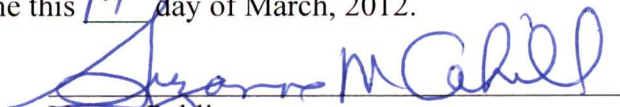
David J. Hogue
Pringle & Herigstad, P.C.
P.O. Box 1000
Minot, ND 58702-1000

Mr. Patrick J. Ward
Zuger Kirmis & Smith
P.O. Box 1695
Bismarck, ND 58502-1695

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


Annette Kirschenheiter

Subscribed and sworn to before me this 14th day of March, 2012.



Notary Public

