

**STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION**

Midcontinent Communications,)	
A South Dakota Partnership,)	
Petitioner,)	
)	
Vs.)	Case No. PU-11-697
)	
Missouri Valley Communications, Inc.,)	
)	
Respondent,)	

**DIRECT TESTIMONY OF W. THOMAS SIMMONS
ON BEHALF OF
MIDCONTINENT COMMUNICATIONS**

March 28, 2012

1 **Q. PLEASE STATE YOUR NAME FOR THE RECORD.**

2 A. W. Thomas Simmons

3 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

4 A. I am employed by Midcontinent Communications as Senior Vice President of Public
5 Policy. I joined the Midcontinent family of companies in 1987 as the general manager of
6 Midcontinent Media's South Dakota radio group. Before that, I worked in radio
7 broadcasting as an engineer, announcer, operation manager, and general manager. In
8 1995, I joined Midcontinent Communications as Vice President and General Manager. In
9 my current capacity, I am responsible for public policy, public relations, public affairs, as
10 well as community and government relations.

11 **Q. CAN YOU DESCRIBE YOUR EDUCATION?**

12 A. I hold BA and MS degrees in psychology from Concordia College in Moorhead,
13 Minnesota and from North Dakota State University.

14 **Q. WHAT IS THE PURPOSE OF THIS TESTIMONY?**

15 A. I am providing this testimony relating to the population growth of Williston and the
16 related service issues encountered by Midcontinent. In addition, my testimony will show
17 that due to this astronomic growth, the City of Williston will exceed the size of several
18 other ND cities that have two or more competitors in their city, and will discuss the
19 benefits of competition. My testimony also addresses issues relating to the impact of
20 service issues on the need for specific provisions in the parties' interconnection
21 agreement and for the transition from resold service to facilities-based service.

22

23 ***MIDCONTINENT AND ITS SERVICES***

1 **Q. CAN YOU DESCRIBE MIDCONTINENT AND THE SERVICES IT OFFERS?**

2 A. Midcontinent is the largest cable provider in the Dakotas. We offer cable services, high
3 speed Internet and telephone service across North Dakota, South Dakota, Minnesota and
4 Wisconsin. Our telephone service is a direct competitor to incumbent telephone
5 company offerings, including local and long distance services; features like call waiting
6 and call forwarding; and voice mail. Today, Midcontinent serves more than 97,000
7 telephone customers and nearly 290,000 customers for all of its services combined.

8 **Q. HOW DOES MIDCONTINENT PROVIDE ITS SERVICES?**

9 A. Except in Williston, we use the Midcontinent cable platform to provide all of our
10 services. All of our cable and high speed internet services are provided over our own
11 facilities. While we often begin providing telephone service on a resale basis when we
12 first enter a market, our goal always is to transition to full facilities-based service as
13 quickly as possible. Offering facilities-based service allows us to provide the best
14 customer experience possible and to control all aspects of the service we provide, from
15 the customer service representatives to the choice of technologies to maximize the quality
16 of the service our customers receive. For these reasons, the overwhelming majority of
17 our phone customers get their service through Midcontinent's facilities. In Williston,
18 however, all our local telephone customers are served via resale of Missouri Valley's
19 service.

20 Midcontinent has been offering telephone service in the Dakotas for many years,
21 including long distance telephone service since 1982 and local telephone service since
22 1998. Midcontinent provides all of its facilities-based telephone services through its own
23 telephone switch. Most of Midcontinent's telephone service is standard circuit-switched

1 service, but even service that uses Internet Protocol at the customer premises is converted
2 to standard telephone protocols and routed through the switch before going to other
3 carriers.

4 **Q. WITHIN NORTH DAKOTA, WHERE DOES MIDCONTINENT PROVIDE**
5 **TELEPHONE SERVICE?**

6 A. Our service area includes both urban and rural communities. The largest communities
7 where we provide telephone service are Bismarck, Grand Forks and West Fargo.
8 CenturyLink is the incumbent provider in these communities. Some of the smaller
9 communities served by Midcontinent include Devils Lake and Harvey, served by NDTC;
10 Carrington, served by DCTI; Mayville, served by both CenturyLink and Polar;
11 Hillsboro, served by both CenturyLink and HTC; Wahpeton, served by CenturyLink;
12 Bottineau, served by Turtle Mountain; Langdon and Walhalla, both served by United,
13 and Killdeer, Gladstone, Bowman, and Hettinger, all served by Consolidated.

14
15 ***COMPETITION IN THE MARKET PLACE***

16 **Q. IN THE EXCHANGES WHERE MIDCONTINENT PROVIDES TELEPHONE**
17 **SERVICES, ARE THEY ALSO COMPETITIVE MARKETS FOR CABLE TV?**

18 A. Yes, except for Williston.

19 **Q. WHY SHOULD MIDCONTINENT BE ALLOWED TO COMPETE FOR**
20 **INTERCONNECTED TELEPHONE SERVICES IN WILLISTON?**

21 A. It is in the interest of the public. Midcontinent has received many requests for its
22 telephone services in areas of Williston where Missouri Valley has not built out its
23 network and it is not available to us. Two letters are attached to this testimony as

1 examples. One is from a hotel development and management company working on
2 projects in Williston that would benefit if Midcontinent were permitted to provide voice,
3 video and data services to new hotel facilities. The second letter is from First
4 International Bank of Watford City expressing their frustration that a phone network will
5 not be available for their Williston Branch for several months. Midcontinent can and has
6 responded positively to these requests for video and data, but cannot provide the phone
7 service requested without the participation of Missouri Valley. Under our current
8 agreement with Missouri Valley, we cannot meet requests for T-1 phone services from
9 business customers, and cannot provide voice mail or distinctive ring options for business
10 customers. We cannot provide voice mail, distinctive ring options, local freeze or caller
11 ID on TV features for residential customers. If Midcontinent were able to provide
12 interconnected telephone service we could provision all requests on our own network that
13 exists today or is planned for the very near future. Midcontinent would be completely
14 responsible for the quality of service which would be nothing less than that experienced
15 by our customers throughout our four state service territory.

16 **Q. DOES COMPETITION BENEFIT A MARKET PLACE?**

17 A. Yes.

18 **Q. HOW DOES COMPETITION BENEFIT A MARKETPLACE?**

19 A. In Midcontinent's experience, the introduction of facilities-based competition has
20 significant benefits for consumers. It keeps prices in check, increases innovation and
21 adds an extra urgency to take care of customer issues expeditiously.

22 **Q. HOW DOES COMPETITION LOWER PRICES?**

1 A. Like most full service telecommunications providers, Midcontinent offers its customers a
2 variety of discounted bundles with combinations of local and long distance telephone
3 service, cable service, and broadband Internet service. Because services are carried over
4 a common network and share a single bill and customer record, bundles save consumers
5 significant money over the cost of purchasing the services separately. As a triple-play
6 provider, Midcontinent competes with multiple providers with one or more services in
7 every community we serve. Even Midcontinent's standard phone service is essentially
8 bundled to include call waiting, three-way calling and other calling features at no charge,
9 when many incumbent telephone companies charge for those services. Midcontinent's
10 telephone rates are set to compete with the services offered by incumbent phone
11 companies, so they attract customers interested in some degree of savings over what they
12 would pay their old service provider.

13 **Q. HOW DOES COMPETITION SPUR INNOVATION?**

14 A. As discussed previously, price is important in choosing a telephone provider, but it's not
15 the only consideration. The availability of features is an important factor in choosing a
16 phone provider. The availability of voice mail and distinctive ring options are important
17 features for residential customers. The availability of caller ID on the TV screen is also
18 popular with residential customers, but not available in Williston. The availability of
19 interoperable voice, video and data services on a facilities-based network will become
20 increasingly important as new technologies deliver new applications that customers want.
21 Interoperability, however, is difficult if not impossible on two separate networks.
22 Midcontinent has succeeded in competitive markets by adding features to our services,
23 improving reliability and customer service and we consistently search for innovative

1 ways to serve our customers. We train our personnel to react to customer needs and
2 clearly understand that the path to success is based on customer satisfaction. Unlike
3 providers in non-competitive markets, competing providers understand that customer
4 loyalty is always potentially in jeopardy when consumers have the power of choice, and
5 we must be prepared to respond to their demands. That's why we've made upgrades to
6 our video offerings by digitizing our network and providing over 100 HD channels and
7 regional sports coverage. We've consistently upgraded our broadband Internet speed
8 which was at 1.5 Mbps when we launched the service in the late 1990s, and now is
9 available at up to 100 Mbps. We would like to provide our customers with similar
10 upgrades to phone services that are available to customers in other Midcontinent served
11 communities.

12 **Q. DOES COMPETITION HURT RURAL TELEPHONE COMPANIES?**

13 A. Of course, any time competition begins, the incumbent telephone company is subject to
14 reduced revenues and profits. However, Midcontinent has been competing against rural
15 telephone companies in North Dakota and South Dakota since 2004. To date none of
16 those companies have sought regulatory relief from state or federal regulators as a result
17 of competition from Midcontinent, or even asked for permission to raise their rates. In
18 most cases, it seems that competition, or even the prospect of competition, has caused
19 rural telephone companies to try to broaden and improve the service they offer to their
20 customers. Most have added Internet services on their network. Most have consistently
21 upgraded their Internet speeds. Many have added video services, and a growing number
22 have or are in the process of updating their networks to a fiber-to-the-home delivery
23 technology. Midcontinent enjoys a good working relationship with these competitors

1 with the emphasis of our efforts aimed purely at satisfying customers. That level of
2 competition, I believe, is what Congress intended when it passed the
3 Telecommunications Act of 1996.

4
5 ***WHAT HAS CHANGED***

6 **Q. DIDN'T MIDCONTINENT ARGUE THESE ISSUES BEFORE THE PSC IN ITS**
7 **2008 CASE?**

8 A. Yes.

9 **Q. HAS SOMETHING CHANGED IN THE MARKET PLACE TO PROMPT**
10 **MIDCONTINENT TO BRING THIS BEFORE THE COMMISSION AGAIN?**

11 A. Yes.

12 **Q. CAN YOU PLEASE EXPLAIN WHAT THOSE CHANGES ARE?**

13 A. There is little question about the changes that have occurred in Williston since 2008.
14 Williston has become and has been recognized as a major US boom town. The oil
15 expansion with Williston as “ground zero” has made North Dakota America’s fastest-
16 growing state economy, with a \$1 billion budget surplus, 3.3 percent unemployment and
17 a 9.4 percent rise in personal income in 2010. In a March 2012 AARP article, Williston
18 Mayor E. Ward Koeser said, “Our sewer, roads, law enforcement and housing are at
19 capacity. We have to plan and work like crazy to catch up. But someday we’ll have a
20 better city.” According to information provided and reviewed by the Williston Economic
21 Development Department and published on October 25, 2011, “Within five years, if
22 growth continues, Williston will become the fourth largest city in North Dakota”.
23 According to the 2010 Census, Williston (14,716) has the ninth largest population in the

1 State of North Dakota. Given the number of building permits approved in 2011,
2 Williston will be the sixth largest population in the state, moving ahead of both
3 Jamestown (15,427), Dickinson (17,787), and Mandan (18,331). It is important to note
4 that Mandan and Dickinson have two competing facilities-based wireline telephone
5 competitors and Jamestown has three. Within three years, another 11,000 plus units will
6 be built in Williston. The Williston Economic Development Department projects that
7 Williston's population will then move ahead of the fifth largest community, West Fargo
8 (25,830). West Fargo has three facilities-based wireline telephone competitors.

9
10 In 2008, when these issues were first argued, we knew little about the coming oil impact
11 in Williston, but the picture is becoming clear with the release of new information. \$106
12 million in building permits in 2010 more than doubled the 2009 record of \$44 million.
13 The Williston Herald reported in October of last year that, "As of Sept.30, the city of
14 Williston Building Department has issued a total of 727 building permits in 2011...The
15 Building Department is projecting that number to surpass \$300 million by the end of the
16 year". While building permits and population numbers are important factors, we are
17 most concerned about housing units where we serve most of our customers. Growth of
18 homes in Williston during the next five years is expected to range from 6,000 to 10,000
19 units. With homes passed by our system in 2011 at 9,000, this could mean an increase of
20 117% to 19,500. We are prepared to build out our network in anticipation of the needs of
21 our customers. We are also prepared to extend the same services with same level of care
22 and satisfaction enjoyed by our customers throughout our service area. We clearly

1 understand that our reputation is at stake. Unfortunately in Williston, our reputation is
2 not completely within our control.

3 **Q. WHY DO YOU SAY YOUR REPUTATION IS NOT COMPLETELY WITHIN**
4 **YOUR CONTROL?**

5 A. Today, we provide our customers television video and broadband Internet services over
6 our facilities. Phone service, however, is a resold service and is provided to our
7 customers over the Missouri Valley network. We provide all aspects of marketing,
8 product choice, product delivery, quality of service, network maintenance, repair,
9 customer care and billing for television video and broadband Internet services. Because
10 phone service actually is delivered by Missouri Valley, they provide all technical and
11 delivery services to our customers. We are responsible only for marketing, taking
12 customer care calls and billing.

13 **Q. HOW DOES THIS AFFECT YOUR REPUTATION?**

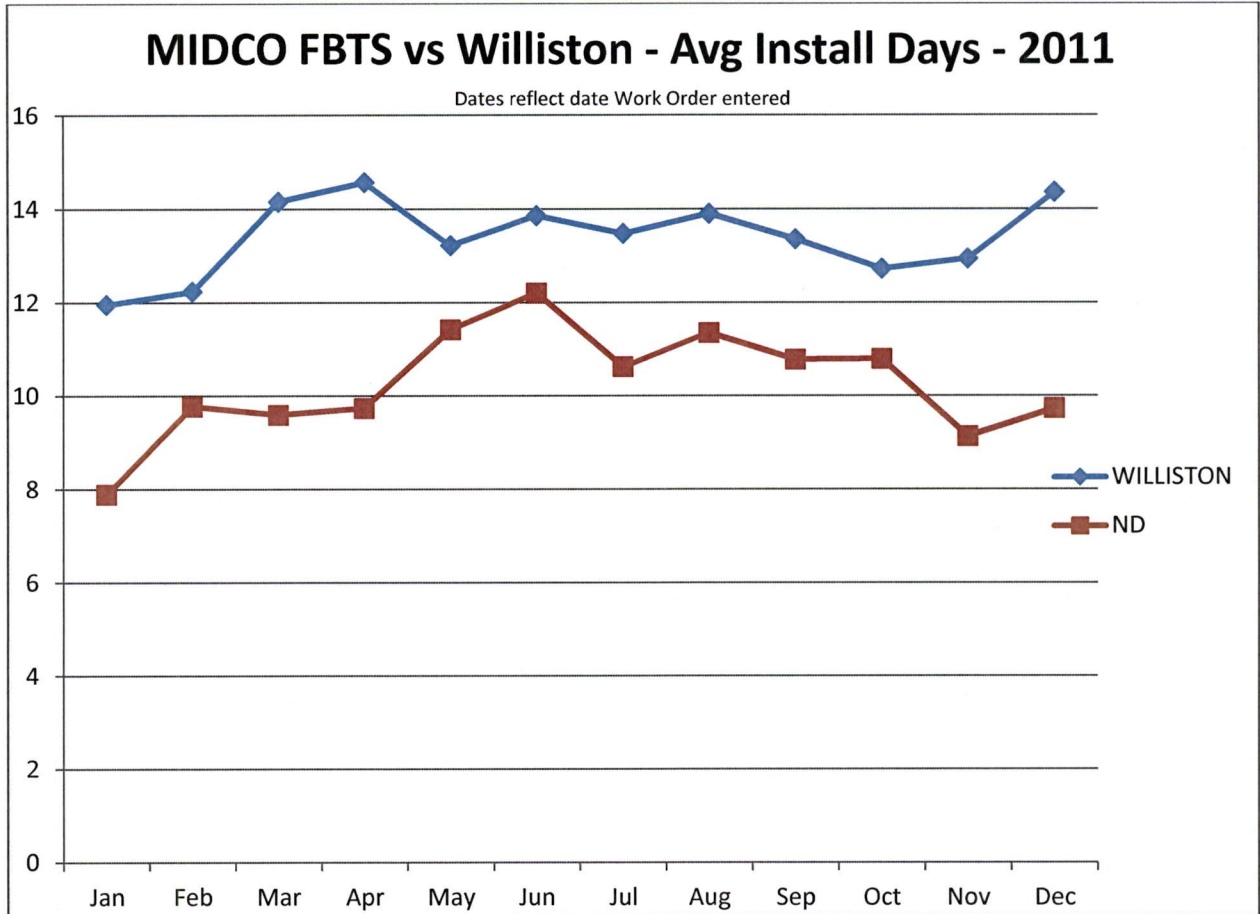
14 A. When the quality of phone service does not match our ability to deliver our other services
15 or fails to meet customer expectations, the customers' frustrations fall to us.

16 **Q. HAS THIS BEEN A PROBLEM?**

17 A. Yes. As discussed earlier, Midcontinent customers requesting bundled services in new
18 parts of the community have not been able to receive phone service because Missouri
19 Valley has not yet extended their network. These customers have access to Midcontinent
20 facilities for video and Internet, but not phone service. Additionally, we have
21 experienced numerous customer service issues relating to the Missouri Valley network.
22 Installations do not meet our standards and the expectations of our customers.
23 Throughout our network we always attempt to install all services with a single truck roll

1 within a four hour window – or ideally a two hour window - on a specific day so as to
2 inconvenience the customer as little as possible. This is not possible when installations
3 are conducted by two companies on two separate networks. Additionally, our average
4 time between initial call from the customer and installation is substantially shorter than
5 the average period between service order and installation provided by Missouri Valley.
6 The chart below shows the average installation wait in business days for Missouri Valley
7 vs. the average number of business days for Midcontinent’s facility based phone
8 customers in other North Dakota communities. Please note that since these averages are
9 for business days, if the average is three days or more, there is a better than even chance
10 that orders may take additional actual days to account for the weekend. I also should
11 note that this chart actually understates the difference between installation times in
12 Williston and for communities on Midcontinent’s network because the Williston
13 calculations start from the time Midcontinent sends its order to Missouri Valley, while
14 the calculations for Midcontinent’s other markets start from the moment Midcontinent
15 receives the order from the customer.

16

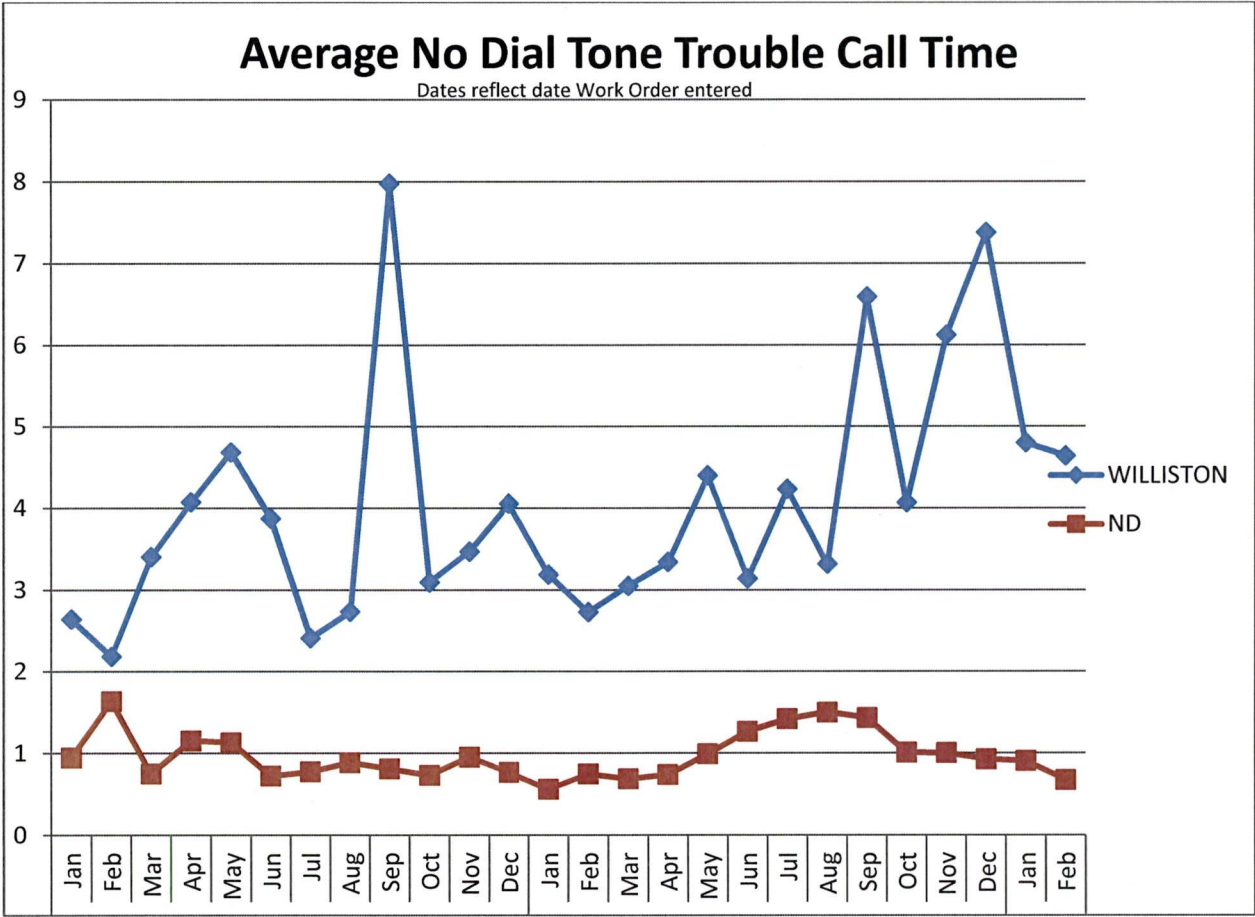


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Q. IS INSTALLATION THE ONLY FACTOR AFFECTING YOUR REPUTATION?

A. No. Customers have a right to expect the highest degree of reliability. The ability to respond quickly to customer issues is of utmost importance, especially when customers pick up the phone and there's no dial tone. This is perhaps the greatest customer service concern and a matter of public safety. The chart below shows the difference between the response rate Midcontinent achieves in other North Dakota communities on its full facility network and the response rate from Missouri Valley. Missouri Valley seldom responds in less than three days while Midcontinent solves the average service outage within a single day or less. Again, since these averages are for business days, if the

1 average is three days or more, there is a better than even chance that orders may take
2 additional actual days to account for the weekend.



3
4 It must be confusing and frustrating for Midcontinent customers to receive one level of
5 response for video and Internet services, and a lower level of response for phone services.
6 In addition, our reputation is affected in front of state regulators as well. In November,
7 2011, Ms. Tori Vader filed a complaint with the ND PSC regarding service installation
8 delays. Ms. Vader's video and data services were installed in **September, 2011**. She had
9 requested telephone at the same time, but due to delays with Missouri Valley, Ms.
10 Vader's installation date was pushed back several times. In frustration, Ms. Vader
11 complained to the ND PSC. The Vader phone service finally was installed on **February**
12 **15, 2012**.

1 **Q. IS IT YOUR DESIRE TO END THE RESALE RELATIONSHIP WITH**
2 **MISSOURI VALLEY?**

3 **A.** Yes. My understanding of resale is that it was a concept of the Telecommunications Act
4 of 1996 to allow competitors a vehicle to enter monopoly telephone markets. I don't
5 believe it was intended to be anything more than a transition device for a competitor to
6 gain customers until they could cost justify the capital costs of building their own
7 facilities. Initially, Midcontinent provided local exchange services over resold networks,
8 but moved to facilities based services as our network expanded. We recognized that
9 resale is not real competition. With resale there is a degree of competition over price and
10 billing processes, but there is no competition for products or technical quality. Over the
11 past fifteen years we have invested heavily to expand our network to offer advanced
12 telecommunications services to both residential and business customers.

13 **Q. CAN YOU EXPLAIN HOW THE INSTALLATION TIME AND SERVICE**
14 **QUALITY ISSUES YOU HAVE DESCRIBED RELATE TO MIDCONTINENT'S**
15 **PROPOSAL FOR THE TRANSITION FROM RESALE TO FACILITIES-BASED**
16 **SERVICE?**

17 **A.** Yes. The problems Midcontinent has experienced demonstrate that it is important for
18 Midcontinent to be able to have a prompt, managed transition for the cutover of
19 customers from resale to facilities-based service. The longer Midcontinent has to wait,
20 the longer that customers will experience excessive waits for service and for repairs and
21 maintenance.

22

1 At the same time, Midcontinent recognizes that not all customers can be moved to
2 facilities-based services at once. That is why we have proposed a transition that moves
3 customers from the resale platform to the facilities-based platform evenly through the
4 transition period. This avoids the practical difficulties that would arise from an
5 immediate cutover, but also moves customers to the new platform as soon as reasonably
6 possible.

7 **Q. DOES MIDCONTINENT INTEND TO CONSTRUCT NEW FACILITIES TO**
8 **SERVE WILLISTON?**

9 **A.** In May, Midcontinent will announce the start of construction of a high capacity fiber
10 managed network extension that will link Williston directly to our Northern Plains
11 Network.

12



13

1 This extension will provide Williston with greatly expanded capacity for advanced video
2 and broadband services, additional and integrated telephone services, and enterprise
3 capacity for economic development. Both residential and business customers deserve the
4 same quality of service available to others throughout the state and should not be
5 restricted to limitations imposed by any company. In a mature market, providers
6 compete for customers' favor, highlighting those aspects they believe are most valuable
7 to customers, and customers have a choice. Williston is experiencing rapid growth. All
8 indications point to continued growth. Current infrastructure must expand, and
9 customers deserve a real choice.

10 **Q. CAN YOU EXPLAIN WHY IT IS IMPORTANT FOR THE ABITRATOR TO**
11 **ADOPT MIDCONTINENT'S PROPOSAL FOR THE EFFECTIVE DATE OF**
12 **THE AGREEMENT?**

13 **A.** Midcontinent has proposed that the agreement become effective upon approval by the
14 PSC, unless a court or the PSC stays the effectiveness of that approval. Missouri Valley
15 has proposed that the agreement become effective only after all appeals are completed,
16 whether or not there is a stay in place.

17
18 There are several practical reasons to adopt Midcontinent's proposal for the effective date
19 of the agreement. First, if a stay is not granted, the likelihood that an appeal will be
20 successful is quite low. In addition, as written, Missouri Valley's provision would delay
21 implementation of the entire agreement even if only one part of the Commission's order
22 approving the agreement was appealed. In other words, an appeal of the specific
23 reciprocal compensation rate would delay implementation even if Missouri Valley did

1 not appeal the agreement as a whole. As a result, there is very little potential benefit to
2 delaying implementation of the agreement unless a stay is granted.

3
4 Second, if the agreement cannot be effective until all appeals are completed,
5 Midcontinent will be forced to deal with the delays in installations and the maintenance
6 and repair problems discussed above for a much longer period. This will harm
7 Midcontinent and its customers.

8
9 Third, as mentioned above, Midcontinent is about to make a substantial investment in the
10 Williston market by constructing new fiber facilities. If the agreement is not in effect
11 during any appeal, Midcontinent's investment will lie fallow during this time. While
12 Midcontinent recognizes that there always is a risk in such cases, there is no reason to
13 make Midcontinent bear that risk unless a stay is granted. The mere fact of an appeal has
14 no impact on the validity of the agreement that is approved by the Commission, and
15 should not, therefore impede implementation.

16 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

17 **A.** Yes it does.



5999 Central Avenue, Suite 102
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727 576 5167 Phone
727 576 1178 Fax

February 15, 2012

To Whom It May Concern:

We are working with the developers of hotel projects in and around Williston, North Dakota, and it would be extremely beneficial for our projects to be able to utilize Midcontinent as a full service provider for bulk cable, voice & data services via fiber optic connection.

Your consideration and assistance in this regard would be greatly appreciated.

Sincerely,

Janet L. Bush

VP of Operations



100 North Main
Watford City, ND 58854
701-842-2381

At First International Bank we fully support Midcontinent Communications entry into Williston ND as an additional telephone and network vendor. We have been very frustrated with communities such as Williston, Watford City, and Minot that only have one vendor allowed to offer telephone and communication services. In communities that we have competition we pay half the price for telephone and data communications compared to what we have to pay in Minot, Williston, and Watford City.

In addition to the issue we have with price, we also have issues with services. From our view as a customer of local telephone companies they do not seem to feel like they need to update the services they offer because nobody can come in and compete with a better product. Allowing competition in these communities would inspire local telephone companies to improve their services.

Finally, with the explosion of people and businesses in western ND it is no longer possible for one company to serve the demand. Currently we are on a waiting list for a fiber connection to our Williston office that is 6 to 9 months. This is unacceptable. In our opinion there is plenty of business to go around and competition is welcome.

Respectfully,

Shannon Hammeren
Information Systems
Manager First International
Bank & Trust
701-842-7387