

LAW OFFICES
MAY, ADAM, GERDES & THOMPSON LLP

503 SOUTH PIERRE STREET
P.O. BOX 160
PIERRE, SOUTH DAKOTA 57501-0160

DAVID A. GERDES
CHARLES M. THOMPSON
ROBERT B. ANDERSON
BRENT A. WILBUR
TIMOTHY M. ENGEL
MICHAEL F. SHAW
NEIL FULTON
BRETT KOENECKE
CHRISTINA L. FISCHER
BRITTANY L. NOVOTNY

SINCE 1881
www.magt.com

Celebrating 125 Years

November 8, 2006

RECEIVED

NOV 09 2006

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

OF COUNSEL
WARREN W. MAY
THOMAS C. ADAM

GLENN W. MARTENS 1881-1963
KARL GOLDSMITH 1885-1966

TELEPHONE
605 224-8803

TELECOPIER
605 224-6289
E-MAIL
dag@magt.com

Public Utilities Commission
State Capitol
500 East Capitol Avenue
Pierre, South Dakota 57501-5070

RE: **MIDCONTINENT COMMUNICATIONS; RULES HEARING**

Our file: 0069

Dear Commission Members:

Thank you for the opportunity of appearing before you at the public hearing to adopt rules on November 7. On behalf of Midcontinent Communications, I want to thank you for clarifying and streamlining the rules for the benefit of all parties.

One of the things that should be addressed deals with legislation on electronic transactions which was adopted by the 2000 Legislature and is codified as Chapter 53-12. The definition of electronic signature appearing in SDCL § 53-12-1 is as follows:

Electronic signature, an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

At various places throughout the rules, signatures are mentioned or required. While I believe that the terms of the rules in most instances accommodate electronic signatures as defined by the Electronic Transactions Act, it would be well to review the rules in their entirety to ensure that they do conform with the provisions of that act. For example, I

November 8, 2006

Page 2

believe that a signed pleading filed in pdf form conforms to the electronic signatures definition mentioned above. However, it is now clear that we are operating under the South Dakota Rules of Civil Procedure, and some of the discovery practices that the parties use by custom and usage may not be consistent with the signature definition under the act. While I believe that in most instances the Electronic Transactions Act and the Commission's rules requiring electronic filing are consistent, I believe we should at least ensure that no unintended pitfalls are created.

Thank you very much.

Yours truly,

MAY, ADAM, GERDES & THOMPSON LLP

*dictated by Mr. Gerdes
and mailed in his absence
to avoid delay*

BY:

DAG:mw

cc: Mary Lohnes