

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE FILING BY )</b>	<b>ORDER DENYING MOTION</b>
<b>MIDSTATE TELECOM, INC. FOR AN )</b>	<b>FOR UNIFORMITY IN</b>
<b>EXTENSION OF AN EXEMPTION FROM )</b>	<b>SWITCHED ACCESS RATES</b>
<b>DEVELOPING COMPANY SPECIFIC COST- )</b>	<b>AND FOR EVIDENTIARY</b>
<b>BASED SWITCHED ACCESS RATES )</b>	<b>HEARING</b>
<b>)</b>	<b>TC09-009</b>

On March 2, 2009, the South Dakota Public Utilities Commission (Commission) received a filing from Midstate Telecom, Inc. (Midstate) requesting an extension of its exemption from filing a switched access cost study for a period of six months after the effective date of the new rules adopted by the Commission in RM05-002. Midstate further requested approval of its intrastate switched access rate of 11.5 cents per minute.

On March 5, 2009, the Commission electronically transmitted notice of the filing and the intervention deadline of March 20, 2009, to interested individuals and entities. Midcontinent Communications (Midcontinent) filed to intervene on April 7, 2009. On April 14, 2009, the Commission received a Joint Motion for Approval of Settlement Stipulation and Settlement Stipulation from Midstate. On April 20, 2009, the Commission received an Objection to Midcontinent's Petition to Intervene from Midstate. At its regularly scheduled meeting of April 21, 2009, the Commission granted intervention to Midcontinent. On May 14, 2009, the Commission received a Motion for Temporary Approval of Switched Access Rates from Midstate. On May 21, 2009, the Commission received a Motion to Disapprove Settlement Stipulation and for an Evidentiary Hearing from Midcontinent. On June 18, 2009, the Commission received a Motion for Uniformity in Switched Access Rates and for Evidentiary Hearing from Midcontinent.

At its regularly scheduled meeting of June 23, 2009, the Commission voted unanimously to grant the Motion for Temporary Approval of Switched Access Rates, with the current rate remaining in effect. The Commission further found that the Access Rate Settlement Stipulation that froze Midstate's rate at its current level expressly provided that following the expiration of the rate freeze, Midstate could request another extension. On August 7, 2009, the Commission received a Response to Midcontinent Communication's Motion for Evidentiary Hearing and Uniformity from Midstate. On August 21, 2009, the Commission received a Reply Brief to Responses from Midcontinent.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31.

At its regularly scheduled meeting of August 25, 2009, the Commission considered the Motion for Uniformity in Switched Access Rates and for Evidentiary Hearing. Commission Staff recommended denial. Midcontinent's Motion requested "an evidentiary hearing to determine whether the Commission should order that all CLECs, upon expiration of their previously approved switched access rate, mirror the incumbent rate going forward." The Commission voted unanimously to deny the Motion for Uniformity in Switched Access Rates and for Evidentiary Hearing. It is therefore

ORDERED, that the Motion for Uniformity in Switched Access Rates and for Evidentiary Hearing is hereby denied.

Dated at Pierre, South Dakota, this 15<sup>th</sup> day of September, 2009.

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.

By: Aldine Kolbe

Date: 9/16/09

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Dustin M. Johnson  
DUSTIN M. JOHNSON, Chairman

Steve Kolbeck  
STEVE KOLBECK, Commissioner

Gary Hanson  
GARY HANSON, Commissioner