

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

IN THE MATTER OF THE COMPLAINT AND
REQUEST FOR DECLARATORY RULING FILED
BY MIDCONTINENT COMMUNICATIONS
AGAINST PAETEC COMMUNICATIONS, INC.
AND MCLEODUSA TELECOMMUNICATIONS
SERVICES, L.L.C. REGARDING THE DELIVERY
OF TELECOMMUNICATIONS TRAFFIC AND
PAYMENT FOR SUCH TRAFFIC

ORDER GRANTING DISMISSAL,
WITH PREJUDICE AND
CLOSING THE DOCKET

TC12-016

On January 12, 2012, Midcontinent Communications (Midcontinent) filed with the Public Utilities Commission (Commission) a Complaint and Request for Declaratory Ruling against PaeTec Communications, Inc (PaeTec). On January 19, 2012, the Commission electronically transmitted notice of the filing to interested individuals and entities. On February 1, 2012, the South Dakota Telecommunications Association (SDTA) filed a Petition to Intervene. On February 3, 2012, the Local Exchange Carrier Association (LECA) filed a Petition to Intervene.

On February 8, 2012, Midcontinent amended its Complaint and Request for a Declaratory Ruling. Midcontinent added McLeodUSA Telecommunications Services, L.L.C (McLeodUSA) as a party to the proceeding. On February 21, 2012, Commission Staff (Staff) filed a request regarding the time allowed for Commission action on the Request for Declaratory Ruling pursuant to ARSD 20:10:01:35. Specifically, Staff requested the Commission consider the filing date for purposes of ARSD 20:10:01:35 to be February 8, 2012, which is the date the amended filing was made. In addition, Staff requested an additional sixty days beyond the 60 days provided for in ARSD 20:10:01:35. On February 28, 2012 McLeodUSA and PaeTec electronically filed a Motion to Dismiss and/or Clarification of the Commission's Jurisdiction. On March 21, 2012, McLeodUSA and PaeTec electronically filed a Joint Motion to Dismiss with Prejudice Complainant's Amended Complaint and request for Declaratory Order and Withdrawal of Respondent's Motion to Dismiss and/or for Clarification of Commission's Jurisdiction.

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

At its regularly scheduled meeting of March 27, 2012, Commission staff recommended the Commission grant the Joint Motion. The Commission voted unanimously to grant the Joint Motion to Dismiss with Prejudice Complainant's Amended Complaint and Request for Declaratory Order and Withdrawal of Respondent's Motion to Dismiss and/or for Clarification of Commission's Jurisdiction. It is therefore

ORDERED, that the Joint Motion to Dismiss with Prejudice Complainants Amended Complaint and Request for Declaratory Order and Withdrawal of Respondent's Motion to Dismiss and/or for Clarification of Commission's Jurisdiction is granted and the docket closed.

Dated at Pierre, South Dakota, this 28th day of March, 2012.

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:	<u>Joy Baumgardner</u>
Date:	<u>3-28-12</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Chris Nelson
CHRIS NELSON, Chairman

Kristie Fiegen
KRISTIE FIEGEN, COMMISSIONER

Gary Hanson
GARY HANSON, COMMISSIONER