S T A T E O F M I C H I G A N

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the application of **MIDWESTERN TELECOMMUNICATIONS, INCORPORATED,** for a license to provide basic local exchange service in all exchanges and zones served by Ameritech Michigan, GTE North Incorporated, and Contel of the South, Inc., d/b/a GTE Systems of Michigan.	Case No. U-12322
In the matter of the application of **MIDWESTERN TELECOMMUNICTIONS, INC.,** for designation as an eligible telecommunications carrier in the state of Michigan.	Case No. U-15311
In the matter of the notice by **MIDWESTERN TELECOMMUNICATIONS, INC.,** of discontinuance of service of basic local exchange and toll services.	Case No. U-16946

At the April 6, 2012 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John D. Quackenbush, Chairman
Hon. Orjiakor N. Isiogu, Commissioner
Hon. Greg R. White, Commissioner

ORDER DISMISSING PROCEEDING

On February 23, 2012, the Commission issued an order in Case No. U-16946, commencing an investigation and requiring Midwestern Telecommunications, Inc. (Midwestern) to appear on March 13, 2012 and show cause why it should not be found in violation of Section 313 of the

Michigan Telecommunications Act (MTA), MCL 484.2313, and thereby subject to penalties provided under MCL 484.2601.

On March 13, 2012, a hearing was held before Administrative Law Judge Theresa A. Sheets, at which Midwestern and the Commission Staff (Staff) appeared. At that time, the parties engaged in negotiations and reached a settlement agreement, pursuant to which Midwestern amended its notification of discontinuance of basic local exchange service. Midwestern filed both public and confidential versions of the amendment to Midwestern's notice of discontinuance on March 16, 2012.[1] Also on March 16, 2012, the parties' settlement agreement was filed in which it is agreed that Midwestern has substantially complied with the requirements of MCL 484.2313 and has not violated any other provisions of the MTA. The settlement further acknowledges that Midwestern seeks to surrender its license to provide basic local exchange service in Michigan and to relinquish its eligible telecommunications carrier status. The parties request that the Commission adopt this settlement agreement as the conclusion of the investigation commenced with the February 23 order.

The Commission finds that the settlement agreement is reasonable and in the public interest and should be approved.

THEREFORE, IT IS ORDERED that:

A. The settlement agreement is approved, and this case is dismissed.

B. The license of Midwestern Telecommunications, Inc., to provide basic local exchange service and its designation as an eligible telecommunications carrier are rescinded.

[1]On March 21, 2012, Midwestern filed an erratum to the amendment.

C. Midwestern Telecommunications, Inc., shall surrender to the North American Numbering Plan Administrator any numbers that have been assigned to it.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so by the filing of a claim of appeal in the Michigan Court of Appeals within 30 days of the issuance of this order, under MCL 484.2203(12).

MICHIGAN PUBLIC SERVICE COMMISSION

John D. Quackenbush

John D. Quackenbush, Chairman

Orjiakor N. Isiogu, Commissioner

Greg R. White

Greg R. White, Commissioner

By its action of April 6, 2012.

Mary Jo Kunkle

Mary Jo Kunkle, Executive Secretary

ATTACHMENT A

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of Midwestern Telecommunications, Inc.'s notice of discontinuance of basic local exchange and toll service.	))))	Case No. U-16946

SETTLEMENT AGREEMENT

As provided for in Section 78 of the Michigan Administrative Procedures Act of 1968 ("APA"), as amended, MCL 24.278, and Rule 333 of the Rules of Practice and Procedure before the Michigan Public Service Commission ("Commission"), R 460.17333, and supported by the Commission's own policy encouraging settlement of contested issues, Midwestern Telecommunications, Inc. ("Midwestern") and the Commission Staff ("Staff") (hereinafter collectively referred to as the "Parties") have resolved through settlement discussions all issues before the Commission in the above-captioned case and agree as follows:

1. On December 29, 2011, Midwestern filed a Notice of Discontinuance of Basic Local Exchange Service, pursuant to Section 313 of the Michigan Telecommunications Act ("MTA"), MCL 484.2313, in the above-captioned proceeding.

2. Midwestern published a Notice of Discontinuance in the December 31, 2011 editions of *The Detroit News* and *The Detroit Free Press*. An Affidavit of such publication was filed in this docket on January 25, 2012.

3. Midwestern sent notice of the Notice of Discontinuance on or before December 31, 2011 to all affected Michigan customers via First Class Mail.

4. The Published and Mailed copies of the Notice indicated that service will be disconnected on or before January 31, 2012.

5. At the request of Staff, the last week of January 2012, Midwestern issued, via United States First Class Mail, a revised notice to its remaining customers indicating that they had until March 1, 2012, to choose another carrier, providing customers with the required 60 days' notice provided by statute from the original date of the Notice of Discontinuance. A copy of that second notice was filed in this Docket on January 27, 2012. At least two notices were sent to all remaining customers that week, one which included information about Midwestern's Section 47 CFR 63.71 Application for Discontinuance of Telecommunications Services filed on January 19, 2012 with the Federal Communications Commission and one which did not.

6. On February 23, 2012, the Commission issued an Order Commencing Investigation and to Show Cause in this proceeding, alleging that "Midwestern's initial notification to customers stated that the company would discontinue service on January 31, 2012, less than the required 60 days' notice provided by statute. Further, the notice failed to name alternative providers of basic local exchange and toll service to demonstrate compliance with MCL 484.2313(1)."

7. On March 13, 2012, a Show Cause and Pre-hearing was held in this matter, before Administrative Law Judge Theresa A. Sheets, at which Midwestern appeared with its President Ikechuku Chinwah.

8. Pursuant to an oral Settlement Agreement reached at that March 13, 2012 hearing, on March 16, 2012, Midwestern filed an Amendment to its Notice of Discontinuance of Basic Local Exchange Service. In that Amendment, Midwestern stated, among other items:

A. As required by Section 313(1) of the MTA, Midwestern "shall not discontinue . . . service to an exchange unless . . . 2 or more alternative providers for basic local exchange service, are furnishing a comparable voice service to the customers in the exchange" in which Midwestern is currently providing services. "A comparable voice service includes any 2-way voice service offered through any form of technology that is capable of placing and receiving calls from a provider of basic local exchange service, including voice over internet protocol services and wireless services." Midwestern is licensed throughout the AT&T Michigan, Frontier North Inc., and Frontier Midstates Inc. incumbent territories. Midwestern also attached a list of Basic Local Exchange Service Providers Licensed in Michigan as of March 9, 2012, published by the Commission, and the attached list of Licensed and Competitive Local Exchange Carriers as of March 9, 2012, published by the Commission, and noted that more than 2 alternative providers are furnishing a comparable voice service in the exchanges in which Midwestern was previously offering service.

B. As required by Section 313(1) of the MTA, Midwestern "shall not discontinue . . . service to an exchange unless 1 or more alternative providers for toll service . . . are furnishing a comparable voice service to the customers in the exchange" in which Midwestern is currently providing services. "A comparable voice service includes any 2-way voice service offered through any form of technology that is capable of placing and receiving calls from a provider of basic local exchange service, including voice over internet protocol services and wireless services." Midwestern is licensed throughout the AT&T Michigan, Frontier North Inc., and Frontier Midstates Inc. incumbent territories. In the Confidential version of the Amendment, Midwestern identified one (1) alternative provider that is furnishing interexchange (toll) voice service throughout the State of Michigan in the exchanges in which Midwestern was previously offering service.

C. Midwestern assisted affected Customers in securing service from another basic local exchange provider, including lifeline services where applicable.

9. In both the March 16, 2012 Amendment to its Notice of Discontinuance of Basic Local Exchange Service Amendment and through its witness Ikechuku Chinwah's testimony given on March 13, 2012, it was noted that as of the date the original Notice of Discontinuance was filed (December 29, 2011), Midwestern had approximately 47 customers in Michigan.

10. In both the March 16, 2012 Amendment to its Notice of Discontinuance of Basic Local Exchange Service Amendment and through its witness Ikechuku Chinwah's testimony given on March 13, 2012, it was noted that as of the end of January, 2012 Midwestern had approximately 25 customers remaining in Michigan.

11. In both the March 16, 2012 Amendment to its Notice of Discontinuance of Basic Local Exchange Service Amendment and through its witness Ikechuku Chinwah's testimony given on March 13, 2012, it was noted that as of March 1, 2012, all of Midwestern's Michigan customers had voluntarily switched to other carriers as a result of Midwestern's notice to its customers.

12. In both the March 16, 2012 Amendment to its Notice of Discontinuance of Basic Local Exchange Service Amendment and through its witness Ikechuku Chinwah's testimony given on March 13, 2012, it was noted that Midwestern did *not* involuntarily disconnect any customers in Michigan.

13. The Parties agree that Midwestern has substantially complied with the requirements of Section 313 of the MTA, MCL 484.2313, for discontinuance of service in the State of Michigan and has not violated any other provisions of the MTA, MCL 484.2101 *et seq.*, in doing so.

14. The Parties acknowledge that Midwestern has requested to surrender its license to provide basic local exchange service and relinquish its Eligible Telecommunications Carrier Status through this docket.

15. The Parties request that the Commission accept this Settlement as a conclusion of the Commission's investigation into whether the discontinuance of service proposed by Midwestern Telecommunications, Inc., is permissible under MCL 484.2313.

16. This Settlement Agreement is entered into for the sole and express purpose of reaching a compromise among the Parties. All offers of settlement and discussions relating to this Settlement Agreement are considered privileged under MRE 408. If the Commission approves this Settlement Agreement without modification, neither the Parties to this Settlement Agreement nor the Commission shall make any reference to, or use this Settlement Agreement or the Order approving it, as a reason, authority, rationale, or example for taking any action or position or making any subsequent decision in any other case or proceeding; provided, however, such references may be made to enforce or implement the Settlement Agreement and the Order approving it.

17. This Settlement Agreement is not severable. Each provision of the Settlement Agreement is dependent upon all other provisions of this Settlement Agreement. Failure to comply with any provision of this Settlement Agreement constitutes failure to comply with the entire Settlement Agreement. If the Commission rejects or modifies this Settlement Agreement

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then this Settlement Agreement shall be deemed to be withdrawn, and shall not constitute any part of the record in this proceeding nor be used for any other purpose, and shall not operate to prejudice the pre-negotiation position of any party.

IN WITNESS WHEREOF, the Parties have caused this Settlement Agreement to be duly executed by their respective counsel as of the date indicated below.

MICHIGAN PUBLIC SERVICE COMMISSION STAFF

By: ______________________

Anne M. Uitvlugt (P71641)
Spencer A. Sattler (P70524)
Assistant Attorneys General
Public Service Division
6545 Mercantile Way, Suite 15
Lansing, Michigan 48911
(517) 241-6680
E-Mail: uitvlugta@michigan.gov
sattlers@michigan.gov

Attorneys for Michigan Public Service Commission Staff

Date: March 16, 2012

MIDWESTERN TELECOMMUNICATIONS, INC

By: ______________________

Roderick S. Coy (P12290)
Haran C. Rashes (P54883)
CLARK HILL PLC
212 East Grand River Avenue
Lansing, Michigan 48906
(517) 318-3100
(517) 318-3099 Fax
E-Mail: rcoy@clarkhill.com
hrashes@clarkhill.com

Attorneys For Midwestern Telecommunications, Inc.

Date: March 16, 2012

P R O O F O F S E R V I C E

STATE OF MICHIGAN)

Case No. U-12322

County of Ingham)

Mignon Middlebrook being duly sworn, deposes and says that on April 6, 2012 A.D. she served a copy of the attached Commission orders by first class mail, postage prepaid, or by inter-departmental mail, to the persons as shown on the attached service list.

Mignon Middlebrook

Digitally signed by Mignon Middlebrook
DN: cn=Mignon Middlebrook, c=US, email=middlebrookm@michigan.gov
Date: 2012.04.10 10:54:55 -04'00'

Mignon Middlebrook

Subscribed and sworn to before me
this 6th day of April 2012

Lisa Felice

Lisa Felice
Notary Public, Eaton County, MI
My Commission Expires April 15, 2014

Service List U-12322

David M. Gaalato
Michigan Dept. of Attorney General
Public Service Division
6545 Mercantile Way, Suite 15
Lansing MI 48911

Midwestern Telecommunications, Inc.
c/o BillSoft Services
8685 W. 96th Street, Suite 220
Overland Park KS 66212