

In the Matter of)
)
Transforming the 2.5 GHz Band) WT Docket No. 18-120
)

In its initial comments, Midcontinent Communications (Midco) urged the Commission to adopt a balanced approach in modernizing the Educational Broadband Spectrum (EBS) 2.5 GHz band by encouraging commercial development while maintaining the intended educational use of the band by requiring commercial providers to participate in the E-rate or similar program. A review of comments filed in this Docket confirms that a balanced approach would “get this valuable spectrum into the hands of those who will provide service[.]”¹

I. Given the largely commercial use of the 2.5 GHz band, the Commission should encourage fair competition for this spectrum by modernizing the EBS rules.

¹ *Chairman Pai's Statement*, WT Docket No. 18-120 (May 10, 2018) at ¶ 1.

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approximately 102 licenses in SD, ND, and MN,³ only 2 are licensed to educational institutions with no disclosed commercial connection.⁴

Indeed, Sprint acknowledges that it “is the largest EBS spectrum lessee in the United States. Sprint is also the largest holder of licenses in the adjacent Broadband Radio Service (‘BRS’) band.”⁵ Mobile Beacon, in turn, uses Sprint’s vast 2.5 GHz lease holdings to provide its broadband service.⁶

Simply put, there can be no doubt that the 2.5 GHz band is a commercial band. The Commission, therefore, should create rules to acknowledge and encourage this commercial development, including rationalizing incumbent GSAs to counties using a 75% or 80% threshold based on geography; auction EBS white space in county-sized licenses; and modernize the EBS rules.

A. County-sized licenses provide flexibility for small and large commercial developers and should be adopted for incumbents and new licensees.

Numerous commentators joined Midco in urging the Commission to automatically rationalize incumbent licensees to county-sized licenses, and auction EBS white space in county-sized licenses.⁷ In the Spectrum Frontiers proceeding, the Commission found that “a county-

³ Searches within the Commission’s ULS System were current as of July 29, 2018.

⁴ Of the 102 licenses, only 29 lack a commercial lease. Of those 29, 23 are held by commercial telecommunications providers; leaving only 6 licenses where an educational institution is the licensee. Of those 6 licenses, 2 indicate out-of-state license-holders and commercial use of the license, and 2 of the remaining 4 licenses indicate leases that recently expired and/or have pending lease applications.

⁵ Sprint Comments at 2.

⁶ Mobile Beacon, <https://www.mobilebeacon.org/lte-coverage/> (last visited September 6, 2018) (“Mobile Beacon’s interest service is provided on Sprint’s 4G LTE network.”).

⁷ See, e.g., Comments of the Wireless Internet Service Providers Association (“WISPA”) at 8-9; Letter from Catholic Technology Network, National EBS Associations, Wireless

based license affords a licensee the flexibility to develop localized services, allows for targeted deployments based on market forces and customer demand, and facilitates access by both smaller and larger carriers.”⁸ The same reasoning applies to 2.5 GHz licenses, and Midco urges the Commission to adopt county-sized licenses for both the rationalization of incumbent licenses and the auction of new licenses.

B. Incumbents should be rationalized to a county only if the GSA covers a minimum of 75% of the county’s geography.

Given the commercial use of the EBS band, the Commission should free up as much EBS white space as possible by rationalizing incumbents to a county if a GSA covers a minimum threshold of 80% (or the Commission’s proposed 75% threshold)⁹ based on geography. Using a higher percentage rationalization would free up more spectrum for auction and “put this band in the best position for future success,”¹⁰ and avoid “past spectrum policy mistakes.”¹¹ The following maps provided in Midco’s initial comments best summarize the impact of an 80% threshold for further commercial development in the EBS band:¹²

Communications Association International and Hispanic Telecommunications Information Network, Inc. to Marlene H. Dortch, Secretary, FCC, WT Docket 03-66 (filed June 6, 2014) (the “Consensus Proposal”); Competitive Carriers Association Comments.

⁸ *Use of Spectrum Bands Above 24 GHz for Mobile Radio Services, et. al.*, GN Doc. 14-177, *et. al.*, Report and Order and Further Notice of Proposed Rulemaking, 31 FCC Rcd 8014, ¶ 35.

⁹ *Notice of Proposed Rulemaking (“NPRM”)*, WT Docket No. 18-120 (May 10, 2018) at ¶ 17.

¹⁰ *Commissioner O’Rielly Statement*, WT Docket No. 18-120 (May 10, 2018) (“Let’s figure out what to do with the incumbents, auction the rest, and put this band in the best position for future success.”).

¹¹ *See id.* at ¶ 3.

¹² For the Commission’s convenience, Appendix 1 from Midco’s initial comments containing Midco’s maps are attached hereto as Appendix 1.

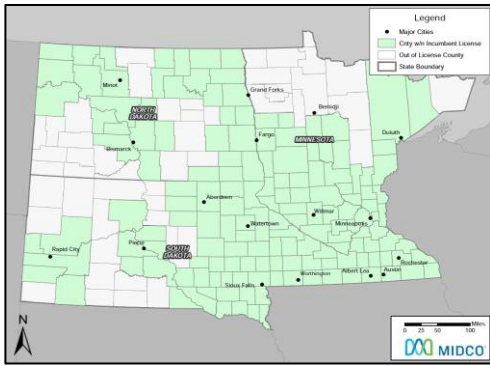


Figure 1: All Counties within Incumbent Licenses

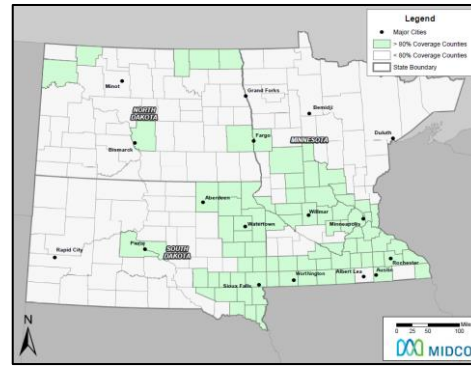


Figure 2: Incumbents Rationalized to 80% of County Geography

C. The Commission should further encourage commercial development of the EBS band by modernizing the EBS rules to promote commercial use.

Many commentators also agreed that a modernization of rules to eliminate or reduce the educational use requirements would be beneficial.¹³ Midco agrees with many of the Commission's and other commentators' proposals to modernize rules, including eliminating the educational use requirements in Section 27.1203(b), and (c).¹⁴

In auctioning white space, the Commission should also modernize the channel size from the 5.5 to 6.5 MHz channels to channel sizes of at least 10 MHz or 20 MHz.¹⁵ Additionally, the Commission should consider an incentive auction to encourage incumbents to relinquish

¹³ WISPA Comments at 9-13.

¹⁴ NPRM at ¶¶ 8, 20.

¹⁵ See Initial Midco Comments at 18 (further explaining why 10 or 20 MHz channels are important).

voluntarily some or all of their spectrum usage rights.¹⁶ The Commission may also consider using the proceeds from an auction to fund programs to close the Homework Gap.¹⁷

Most importantly, the public interest is best served if companies committed to providing broadband to unserved or underserved areas in rural America are able to compete for licenses. Midco encourages the Commission during its public notice process to develop auction procedures for the 2.5 GHz band to best serve rural America, such as adopting auction terms that would grant preferential treatment to licensees who commit to build broadband in rural America, measured with mandatory, periodic service benchmarks.¹⁸ Like other commentators, Midco supports limitations on spectrum ownership to ensure that one or more large national carriers do not again control the majority of licenses (or leases) to the detriment of local broadband providers.¹⁹

II. In lieu of local priority windows, the Commission can balance commercial development with the EBS band's educational intent through the E-rate program.

The Commission can balance new commercial uses with educational and Tribal needs by requiring licensees to participate in the E-rate (or similar) program throughout each licensed area.²⁰ Midco is currently a participant in the E-rate program, and has witnessed a public benefit to providing broadband to rural and other high-need schools and libraries, where free internet

¹⁶ See *NPRM* at ¶ 61.

¹⁷ See generally *Commissioner Rosenworcel Statement*, WT Docket No. 18-120 (May 10, 2018) (discussing the Homework Gap).

¹⁸ See *NPRM* at ¶ 51 (noting that the Commission would initiate a public notice process to solicit public input on certain details of auction design); and *NPRM* at ¶ 62 (seeking comment on potential preferential treatment of some applicants).

¹⁹ NTCA Comments at 6; WISPA Comments at 21.

²⁰ *Commissioner Carr Statement*, WT Docket No. 18-120 (May 10, 2018) at ¶ 6.

access is then provided to communities. Mandatory participation in the E-rate program for all 2.5 GHz licensees throughout each licensed area would help bridge the Homework Gap,²¹ and provide even more Americans with access to broadband.

While there are already hundreds of comments in this docket, a substantial number of commentators are Mobile Beacon customers or supporters.²² While applauding the discounted service, none of the institutions discuss the E-rate program. Instead of urging participating in the E-rate program so that *all* educational institutions and Tribal nations could benefit, these commentators urge the Commission to institute the proposed local priority windows, and even further argue that the Commission institute anti-competitive rules wherein only institutions partnered with a “local” provider are allowed access to this valuable spectrum.²³ In arguing for

²¹ See generally *Commissioner Rosenworcel Statement*, WT Docket No. 18-120 (May 10, 2018) (discussing the Homework Gap).

²² See, e.g., Mary Klimack Comments (endorsing Mobile Beacon); Robbie Smith Comments (same); River Line Historic Area, Inc. Comments (same); Amy Baker Comments (same); Douglas Hawley Comments (same); Joon Kim Comments (same); Jazz@STJ Comments (same); Jamie Brambley Comments (same); The S.A.V.E Program Comments (same); Aleph Bet Jewish Day School Comments (same); Barbara Lubb Comments (same); Custom Collaborative Comments (same); and etc.

²³ See generally Rural EBS Coalition Comments (arguing that only “local” providers should be able to lease a 2.5 GHz license); see also John Riner Comments (form comments agreeing with CoSN and SETDA comments); Scott Pierce Comments (same); Jennifer Rowan Comments (same); Vicki Bates Comments (same); Ronlad Cone Comments (same); Copper Country Intermediate School District Comments (same); Deborah Ketring Comments (same); Karen Nave Comments (same); Ronald Pleasant Comments (same); Francisco Zavala Comments (same); Allan Schneider Comments (same); Stuart Long Comments (same); Nancy Rose Comments (same); Jan Lehman Comments (same); Amanda Lange Comments (same); and etc..

local priority access windows, these commentators wholly neglect the educational intent of the 2.5 GHz band.²⁴

Commentators who embrace the commercial reality of the EBS band uniformly disagree with the Commission's proposal to create any local priority filing windows.²⁵ As aptly noted by one commentator, "[t]o create priority licenses while simultaneously releasing the spectrum from restrictive use, creates a fallacy that the spectrum will be used to serve primarily educational purposes and sets the stage for potential windfalls for parties who obtain the spectrum or lease it from educational licensees for commercial use."²⁶

In lieu of these anti-competitive local priority windows, the Commission can ensure that that educational institutions and Tribal Nations receive broadband services by requiring commercial providers to participate in the E-rate or similar program and serve educational institutions and Tribal Nations that are within the provider's service area.

CONCLUSION

The Commission should promote the commercial development of the EBS band by automatically rationalizing incumbent EBS licenses to counties if the incumbent covers at least 80% of the county based on geography; auctioning the remaining EBS white space in county-sized licenses through an auction that encourages providers to close the digital divide in rural America; and declining to open any local priority windows prior to a competitive auction. The Commission should then balance this commercial development with the educational intentions of the EBS band by requiring licensees to participate in the E-rate program.

²⁴ *See generally* Rural EBS Coalition Comments.

²⁵ *See, e.g.*, WISPA Comments at 14-15; NTCA Comments at 4.

²⁶ NTCA Comments at 4.

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Respectfully submitted,

MIDCONTINENT COMMUNICATIONS

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Appendix 1

Full-Size Midco Maps

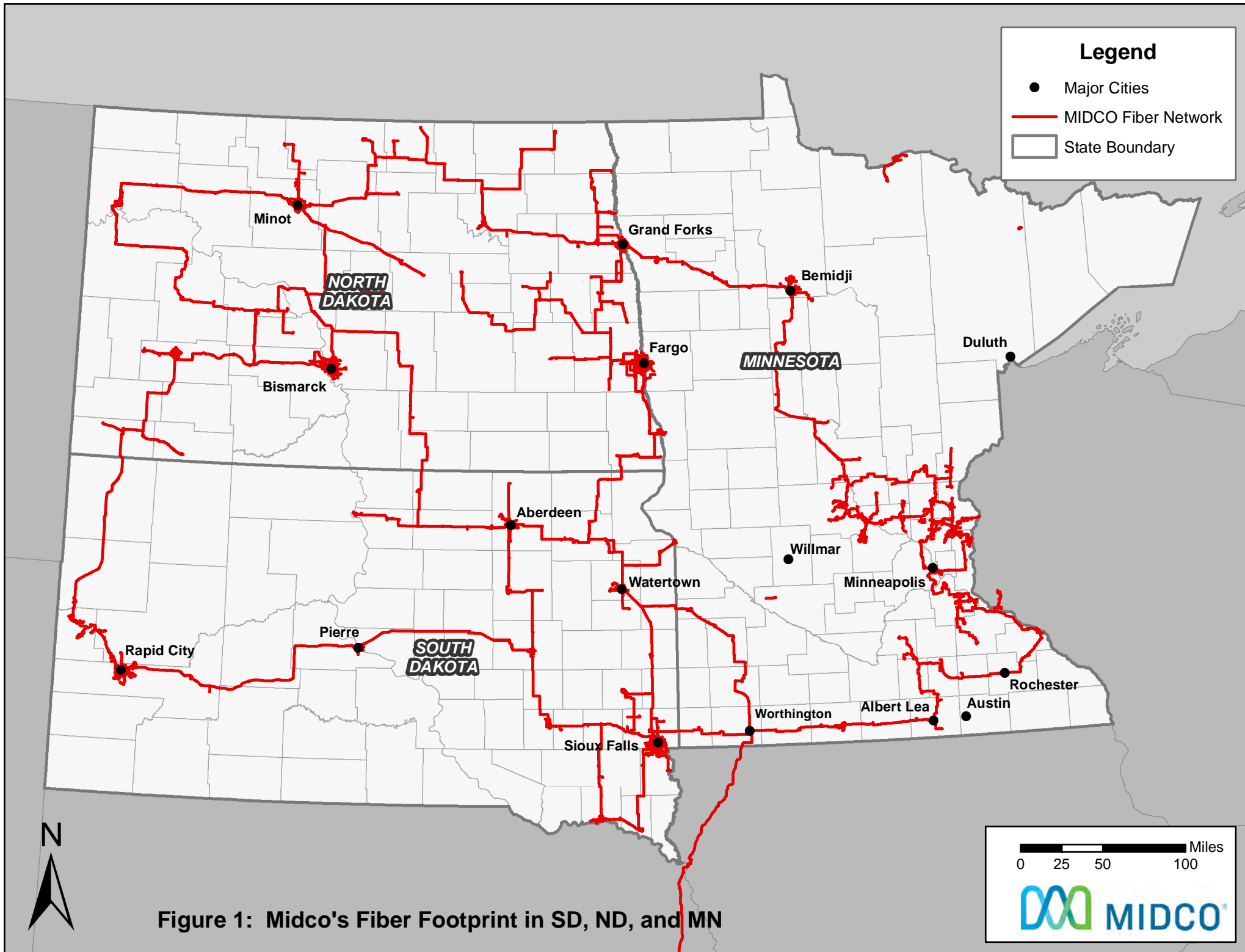


Figure 1: Midco's Fiber Footprint in SD, ND, and MN

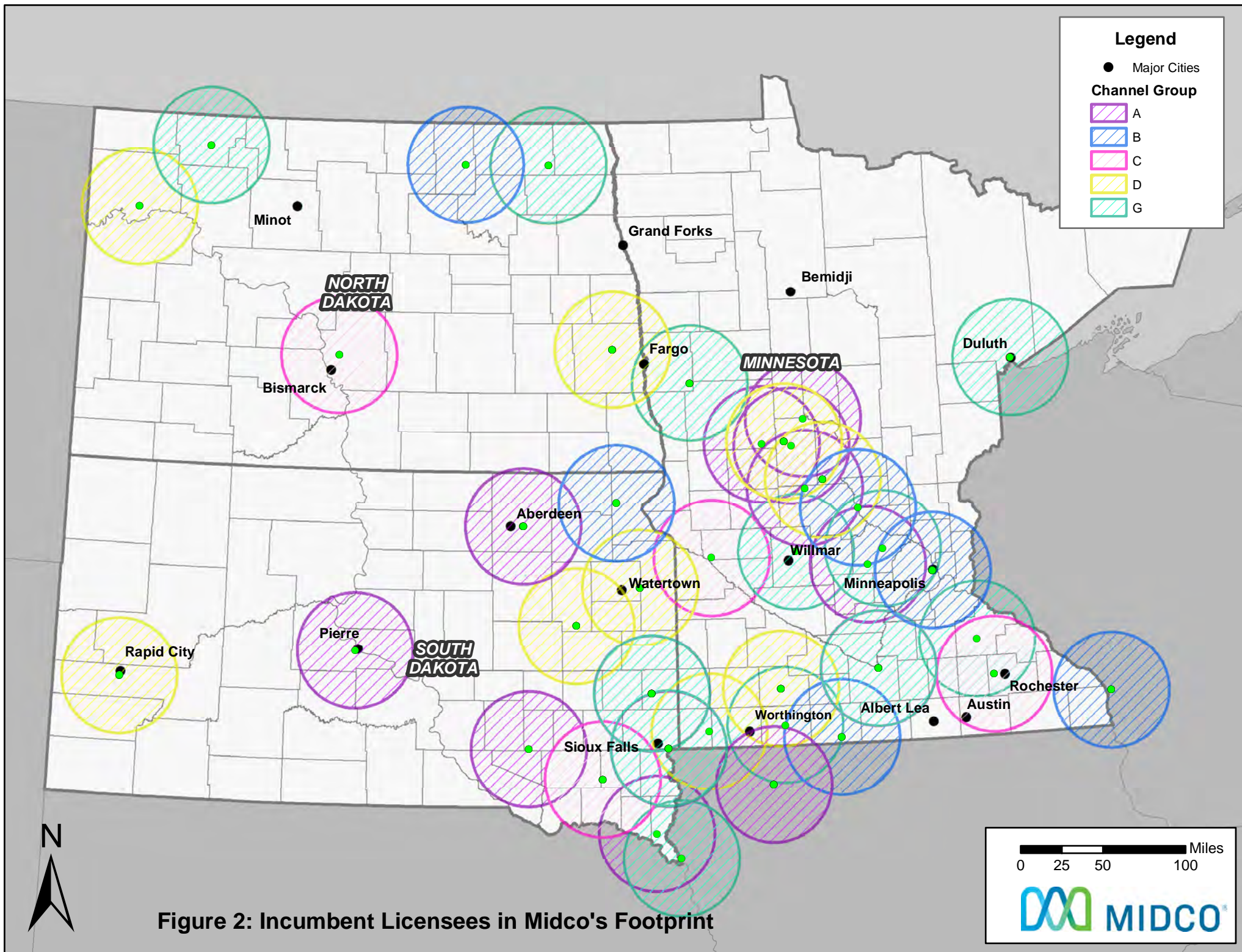


Figure 2: Incumbent Licensees in Midco's Footprint

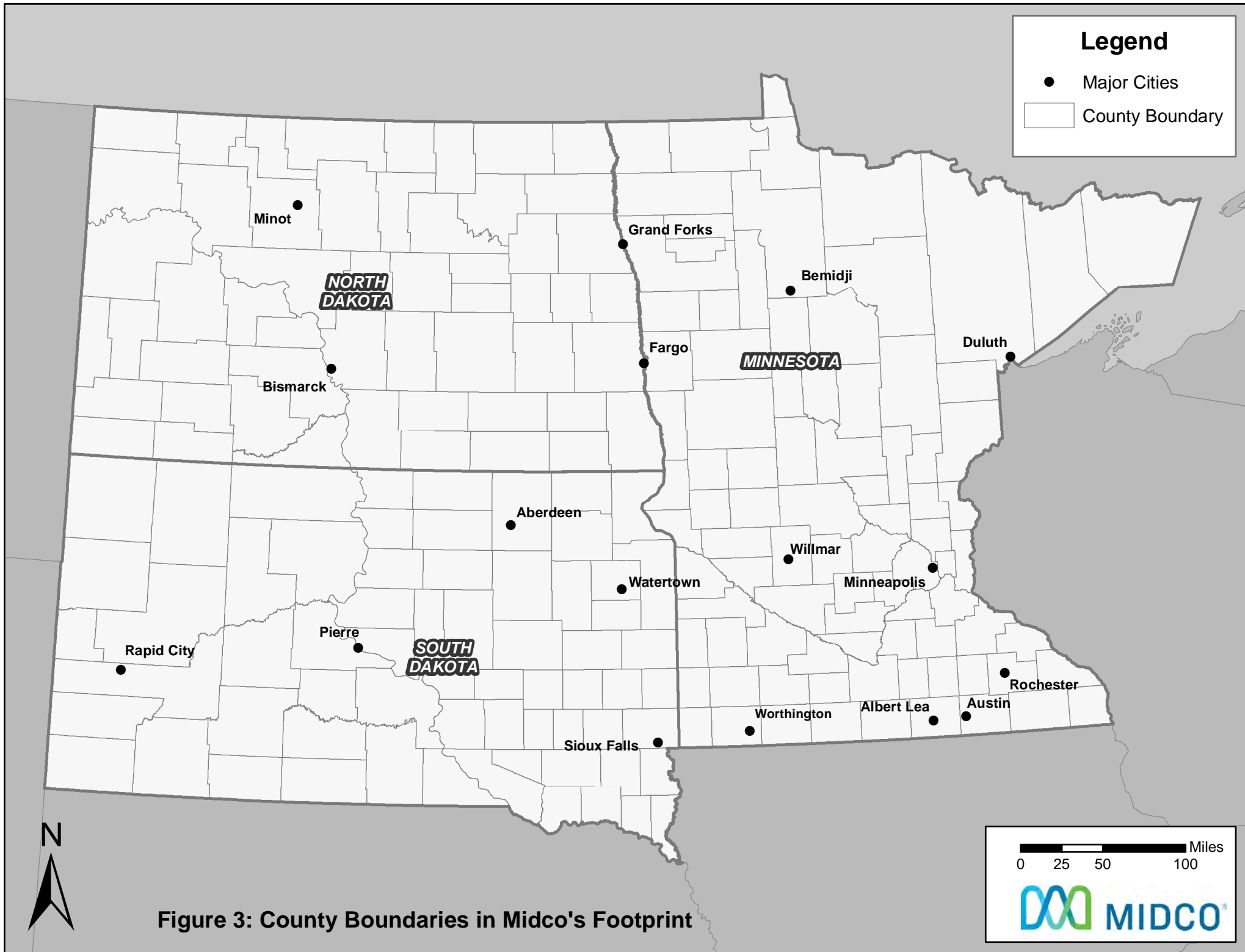
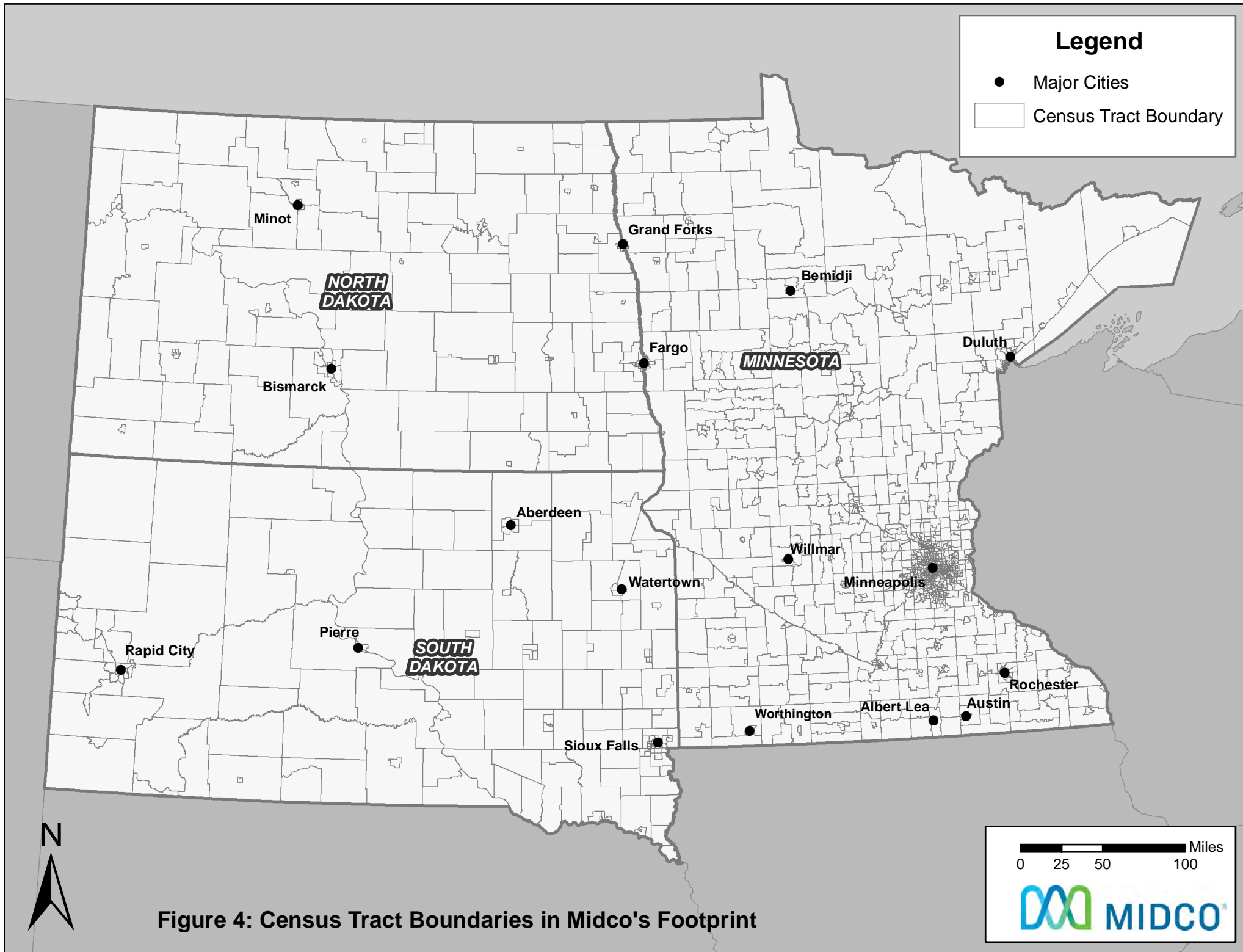
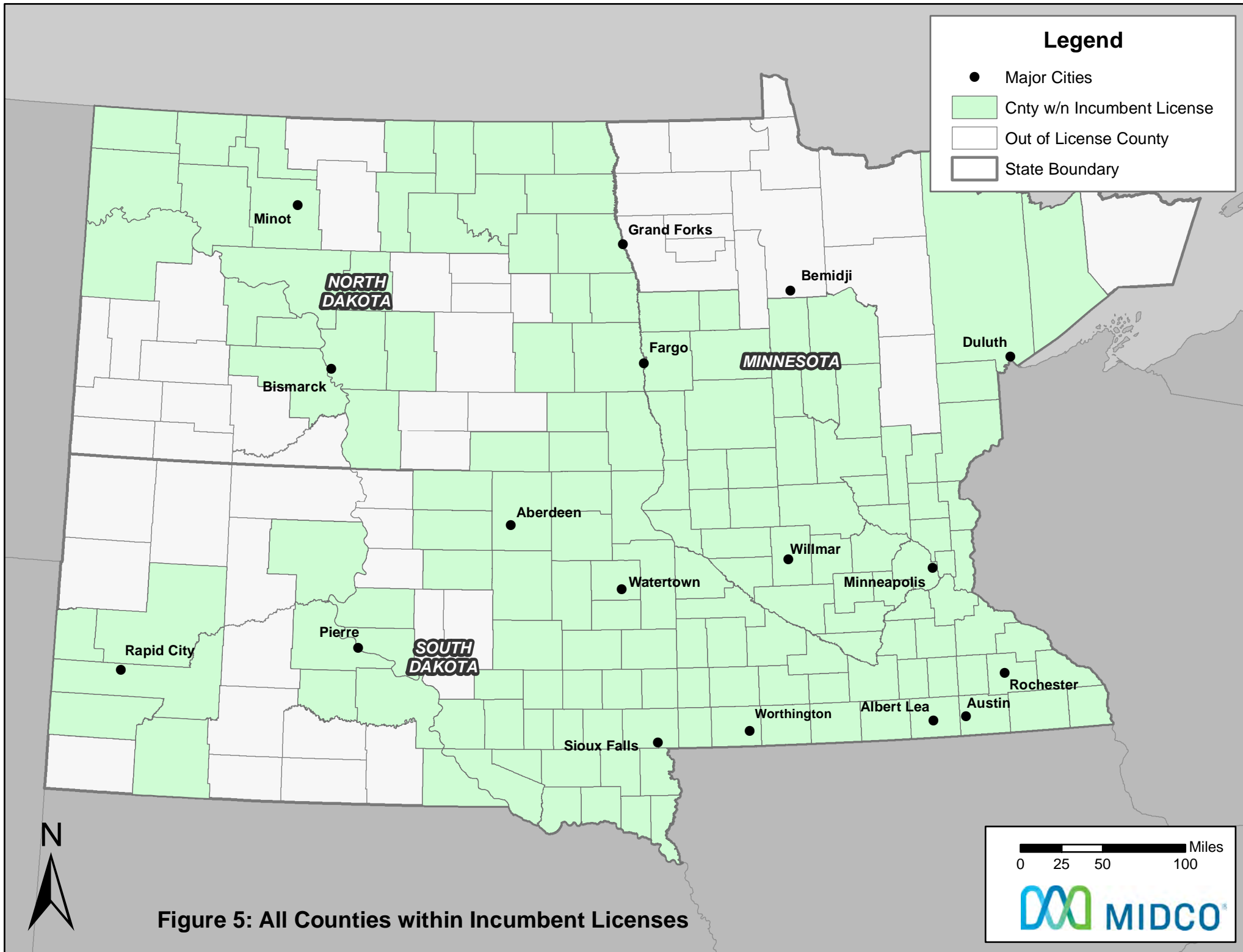


Figure 3: County Boundaries in Midco's Footprint





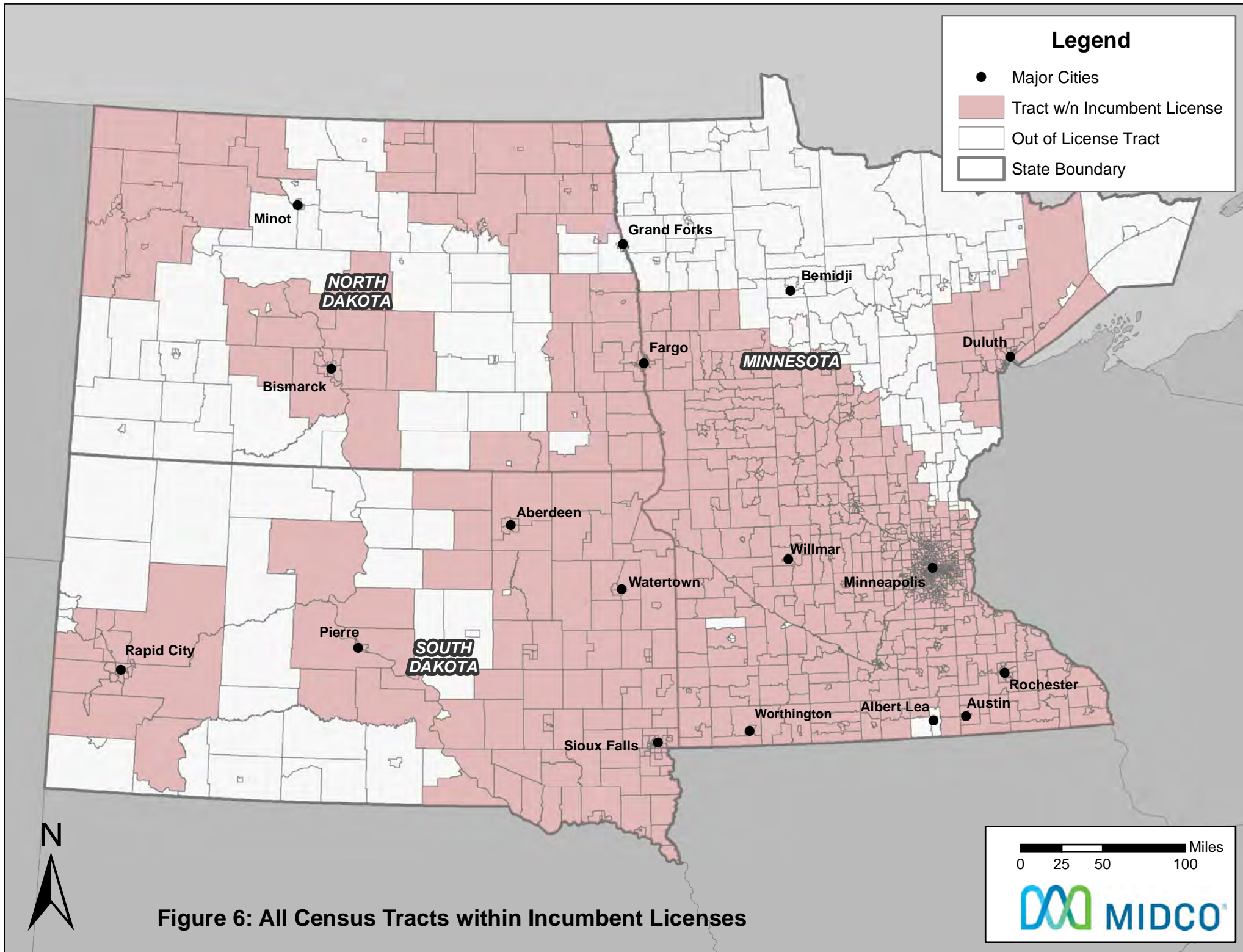


Figure 6: All Census Tracts within Incumbent Licenses

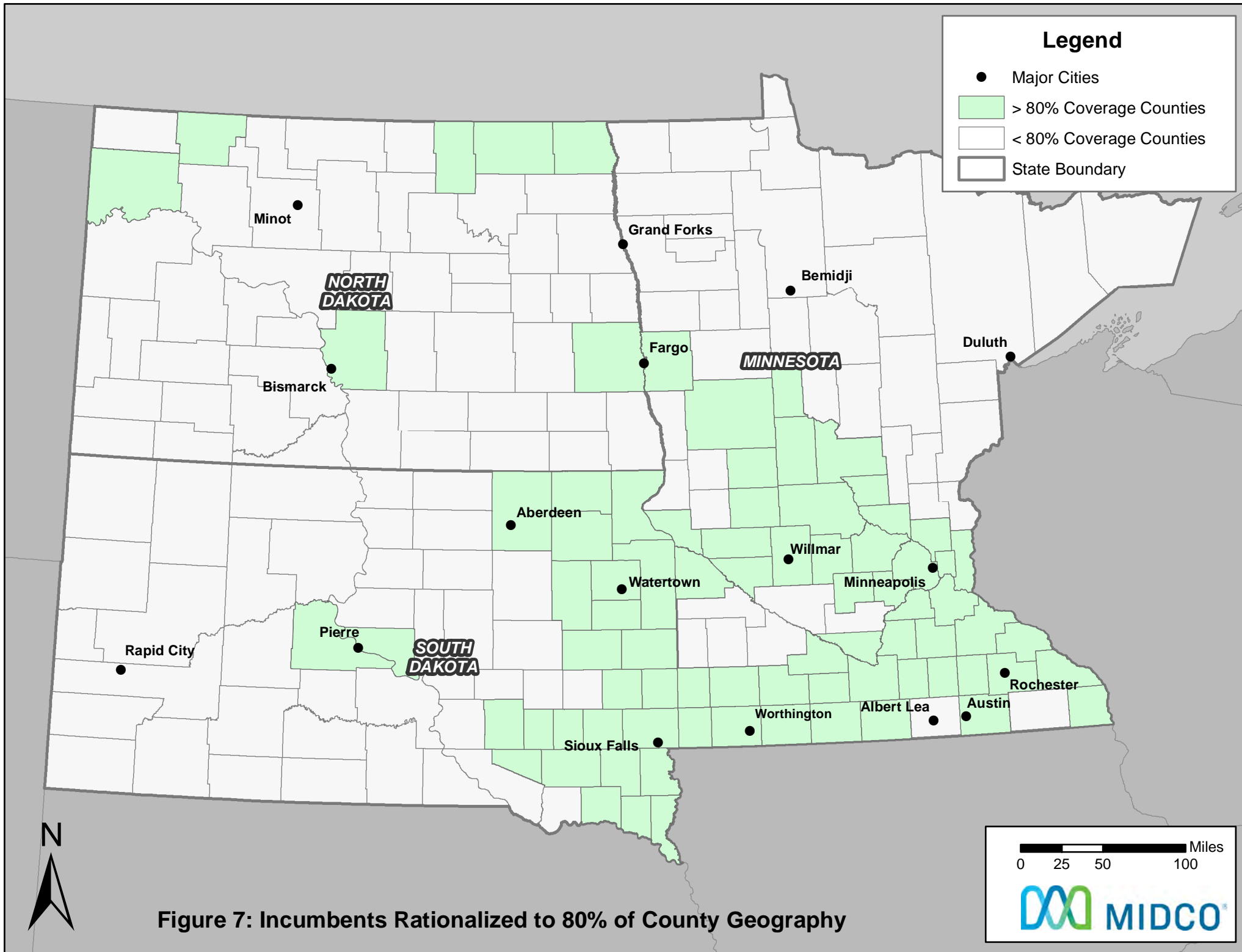


Figure 7: Incumbents Rationalized to 80% of County Geography

