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FILED ELECTRONICALLY

March 24, 2004

Ms. Marlene H Dortch, Secretary
Office of the Secretary
Federal Communications Commission
445-12th Street, SW
Washington, DC 20554

Re: Notice of Ex Parte Presentation
Petition for Order Declaring Mid-Rivers Telephone
Cooperative, Inc., an Incumbent Local Exchange
Carrier in Terry, Montana
WC Docket No. 02-78

Dear Ms. Dortch:

On March 23, 2004, Clifford Rohde and I, representing Mid-Rivers Telephone Cooperative, Inc., met with Jeff Carlisle, Robert Tanner, Katie King, Vickie Robinson and Ian Dillner of the Wireline Competition Bureau to discuss Mid-Rivers' pending Petition.

Our remarks reiterated filings already entered into the record. We provided staff with a copy of our April 24, 2003 *ex parte* along with a map of Mid-Rivers' service territory, a copy of which is appended to this Notice. We also stressed that Mid-Rivers, deeply frustrated that the Petition has been pending before the Commission for more than two years, is considering whether to petition the court to order the Commission to rule on its Petition.

In response to questions regarding the Universal Service Fund ("USF") support eligibility of Mid-Rivers upon grant of its Petition, we stated that Mid-Rivers agrees it would be reasonable for the Commission to fix Mid-Rivers' USF recovery in Terry to the amount developed in accordance with Section 54.307 of the Commission's Rules, pending completion of the current USF "portability" proceeding. Under that rule, Mid-Rivers currently receives USF support in the Terry exchange at the same per line level that Qwest receives. Should Mid-Rivers ultimately be able to draw USF support based on its own costs, we indicated that due to the small number of lines in the Terry exchange (some 450), and the modest differential between Mid-River's ETC and CETC support, the increase in USF would be very small and, in any event, not come anywhere near exceeding the one-percent test the

Commission employs to determine whether a study area change has a significant impact on high cost USF.

We discussed the question of whether, upon grant of the Petition, a study area waiver would be required to bring the Terry exchange lines into Mid-Rivers' ILEC study area. In its Memorandum Opinion and Order in *Request for Clarification Filed by the National Exchange Carrier Association, Inc. and Petitions for Waivers Filed by Alaska Telephone Company et al., Concerning the Definition of "Study Area" Contained in the Part 36 Appendix-Glossary of the Commission's Rules*, 11 FCC Rcd 8156 (1996) ("MO&O"), the Commission concluded that holding companies consolidating existing study areas in the same state need not seek waiver of the study area freeze rule. MO&O at ¶ 9. No waiver is needed in such a circumstance because the consolidation provides the company with no advantage under the USF rules. *Id.* at ¶ 6. That logic applies with equal force in Mid-Rivers' case. Should Mid-Rivers' petition be granted, it would become the ILEC in Terry serving an area outside its existing study area. In that circumstance, the Commission's expressed preference for combination of a carrier's properties in a state into a single study area would be best served by not requiring the filing of a waiver petition, but merely by noting Mid-Rivers' right to combine the areas in the grant order. Incorporating the Terry lines into Mid-Rivers' existing ILEC study area would produce no advantage vis-à-vis the USF rules. Either Mid-Rivers would continue to receive the support it currently receives as a CLEC, or the costs associated with its Terry lines would be included in its study area average.

In response to staff questioning regarding the state regulatory impact of a favorable Commission decision, we indicated that such a decision would have no significant impact, as the state of Montana principally regulates cooperative ILECs only with regard to ETC designation. We explained that a grant of the Petition would actually subject Mid-Rivers, with respect to its Terry exchange lines, to additional federal regulation and potentially additional obligations to competitors.

We expressed our hope that by separating the "Mid-Rivers as ILEC" and USF issues, the Commission could come to a prompt resolution of Mid-Rivers' Petition.

Please contact me should you have any questions in regard to this matter. This *ex parte* notice is being filed electronically pursuant to Commission rules 1.1206(b) and 1.49(f).

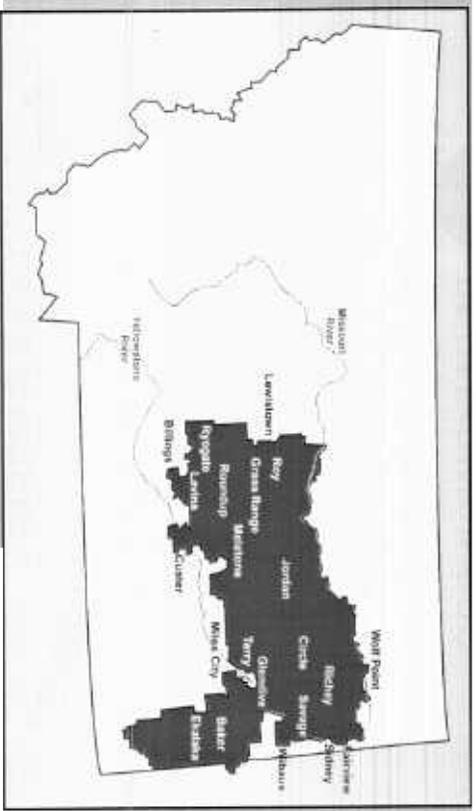
Sincerely yours,

/s/

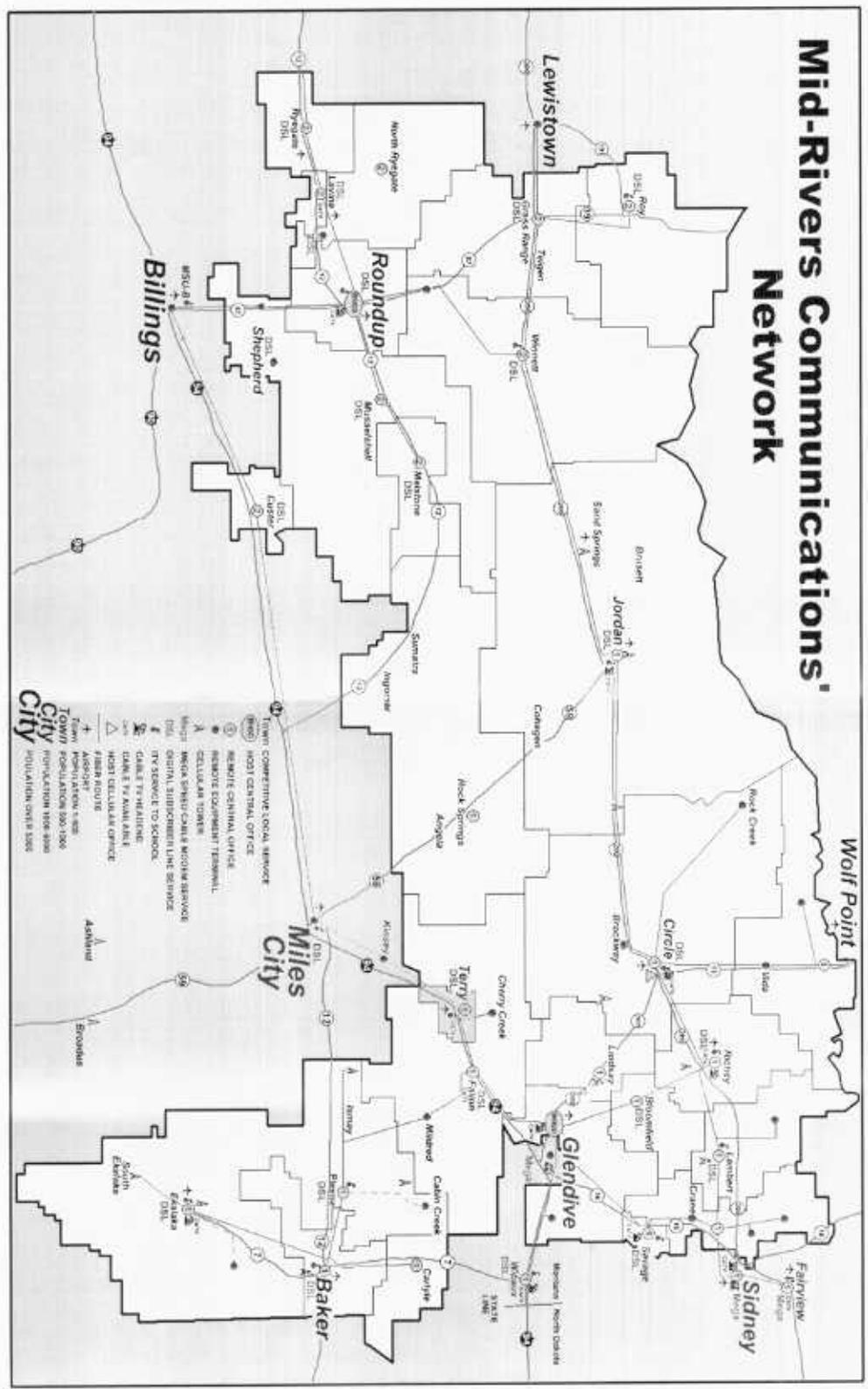
David Cosson

Attachment

cc: Jeff Carlisle
Robert Tanner
Katie King
Vickie Robinson
Ian Dillner



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