

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

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SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Verizon Wireless (VAW) LLC,
CommNet Cellular License Holding LLC,
Missouri Valley Cellular, Inc.,
Sanborn Cellular, Inc., and
Eastern South Dakota Cellular, Inc.
d/b/a VERIZON WIRELESS,

Plaintiff,

Vs.

Bob Sahr, Gary Hanson, and Jim Burg, in
their official capacities as the Commission-
ers of the South Dakota Public Utilities
Commission,

Defendant,

South Dakota Telecommunications Ass'n
and Venture Communications Cooperative,

Intervenors

Civil Number 04-3014

ANSWER

OF

INTERVENORS

Defendant Intervenors in the above-entitled action, South Dakota Telecommunications Association ("SDTA") and Venture Communications Cooperative ("Venture") (collectively referred to as "Intervenors"), hereby answer the Amended Complaint of Plaintiff Verizon Wireless as follows:

1. Intervenors answer that the Amended Complaint fails to state a claim upon which relief may be granted.
2. Intervenors deny each and every allegation of the Amended Complaint except for those allegations specifically admitted to or qualified.

3. Intervenors specifically deny the allegations contained in Paragraphs 14, 16, 17, 18, 19, 23, 24, 25, 26, 27, 28, 31, 34, 35, 36, 37, 38, 39, 41, 42, 44, 46, 48, 50, and 51.

4. Intervenors are without knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, and 9, and therefore such allegations are denied and Intervenors place the Plaintiff upon strict proof thereof.

5. Intervenors admit Paragraphs 10 and 11.

6. Intervenors admit Paragraph 12 but deny that Federal law preempts South Dakota law.

7. Intervenors admit the first sentence of Paragraph 13, but deny the remainder of Paragraph 13.

8. Intervenors admit the first sentence of Paragraph 15, and deny the remainder of Paragraph 15.

9. Intervenors admit Paragraphs 20 and 21.

10. Intervenors are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 22, and therefore such allegations are denied and Intervenors place the Plaintiff upon strict proof thereof.

11. Intervenors admit Paragraph 29.

12. As to Paragraph 30, Intervenors admit the statements in the first sentence, but deny the statements made in the remainder of the Paragraph.

13. Intervenors are without knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraphs 32 and 33, and therefore such allegations are denied and Intervenors place the Plaintiff upon strict proof thereof.

14. As to Paragraph 40 of Plaintiff's Complaint, Intervenors incorporate herein by reference their responses to Paragraphs 1 through 39 of the Complaint.

15. As to Paragraph 43 of Plaintiff's Complaint, Intervenors incorporate herein by reference their responses to Paragraphs 1 through 42 of the Complaint.

16. As to Paragraph 45 of Plaintiff's Complaint, Intervenors incorporate herein by reference their responses to Paragraphs 1 through 44 of the Complaint.

17. As to Paragraph 47 of Plaintiff's Complaint, Intervenors incorporate herein by reference their responses to Paragraphs 1 through 46 of the Complaint.

18. As to Paragraph 49 of Plaintiff's Complaint, Intervenors incorporate herein by reference their responses to Paragraphs 1 through 48 of the Complaint

WHEREFORE, Intervenors pray for judgment as follows:

1. That the Court dismiss the Plaintiff's Amended Complaint for failure to state a claim upon which relief can be granted.

2. That judgment be entered in favor of the Defendant declaring that SDCL §§ 49-31-109 through SDCL §§ 49-31-116 are not preempted by and do not conflict with federal law; that all other relief requested by Plaintiff be denied; and that Plaintiff's Complaint be dismissed with prejudice.

3. That Intervenors be awarded their costs, disbursements and attorneys' fees incurred herein.

DATED this 7 day of October, 2004.


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