

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

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,

Plaintiffs,

vs.

STATE OF SOUTH DAKOTA; SOUTH
DAKOTA PUBLIC UTILITIES
COMMISSION; and BOB SAHR,
GARY HANSON, and DUSTY
JOHNSON, in their official capacities as
the Commissioners of the South Dakota
Public Utilities Commission,

Defendants,

SOUTH DAKOTA
TELECOMMUNICATIONS
ASSOCIATION and VENTURE
COMMUNICATIONS
COOPERATIVE,

Intervenors.

Civil No. 04-3014

**VERIZON WIRELESS' RESPONSE
TO MOTION TO CONTINUE AND
MOTION FOR ADDITIONAL
DISCOVERY**

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 ("Verizon Wireless") oppose the Defendants' and Intervenors' Motion to Continue and Motion for Additional Discovery ("Motion"). There is no reason to believe that the Federal Communications Commission ("FCC") will take action on traffic exchange rules within the next six months, and even if the FCC does act, there is no guarantee that the FCC

would expressly preempt SDCL §§ 49-31-109 through -115. The Motion is a thinly veiled attempt by the Intervenor/Defendants to use the possibility of FCC action to justify the development of new expert testimony on topics that have been in play since this case was filed, and the Court should therefore deny the Motion and proceed to trial promptly.

A. THE TIMING OF FCC ACTION IS UNCERTAIN

The Motion is premised on the suggestion that the Court should delay the case pending FCC action on traffic exchange issues. Yet, Defendants/Intervenors do not claim that the FCC will take action in any specific time frame, much less within the 6-month continuance period. The instant case has been pending for over two and a half years, and should not be further continued at this juncture.

The Motion speaks broadly about these issues being on a “separate and likely faster track for FCC action,” Motion, p. 3, begging the question “faster than what?” The Motion suggests action will come within a “reasonable period of time,” but that term is similarly left undefined. Motion, p. 4. Even the Movants apparently have their doubts when and if the FCC will act. As noted at page 3, footnote 3 of the Motion, however, FCC Docket 01-92 has been pending since 2001, and there is no statutory deadline by which traffic exchange issues must be resolved. While reply comments on Phantom Traffic issues were due on February 1, 2007, that does not mean a decision is imminent.

As an example, the FCC’s *T-Mobile Order*¹ is the most recent significant order addressing an intercarrier compensation issue of pressing concern to the industry. That order was issued in response to a petition for declaratory ruling filed in 2002. The comment cycle established by the FCC closed on November 1, 2002. *Comment Sought on Petitions for*

¹ *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket 01-92, 20 F.C.C.R. 4855, Declaratory Ruling and Report and Order (2005).

Declaratory Ruling Regarding Intercarrier Compensation for Wireless Traffic, CC Docket No. 01-92 Public Notice 17 FCC Rcd 19046 (2002). No order was issued by the FCC for nearly two and one half years after all comments had been filed. Moreover, the FCC has still not acted on the petitions seeking reconsideration of that order filed by various parties in mid-2005. See *Petitions for Reconsideration of Action in Rulemaking Proceeding*, CC Docket 01-92, Public Notice, 70 FR 34766 (2005). As a result, four and one half years after the comment cycle closed, the FCC has not yet disposed of all open issues. In light of this history, the Court should not put itself in the position of trying to manage its own docket by reading the tea leaves at the FCC, and hoping for prompt, definitive action on traffic exchange rules.

The Defendants/Intervenors also speculate that the FCC may “occupy the field” in this area, preempting SDCL §§ 49-31-109 through -115. Motion, p. 5. Verizon Wireless questions whether FCC rules are necessary at all to address traffic exchange issues, but to the extent that they are, FCC action would be preferable to individual state rules. That being said, however, there is a possibility that the FCC could adopt national phantom traffic rules without expressly preempting state laws such as SDCL §§ 49-31-109 through -115. Moreover, Verizon Wireless has already argued (and continues to believe) that SDCL §§ 49-31-109 through -115 are already preempted by FCC action. A possible new basis on which to find that SDCL §§ 49-31-109 through -115 are preempted is not a reason for the Court to grant the continuance that has been proposed.

B. THE MOTION IS AN ATTEMPT TO ADD EXPERT TESTIMONY WELL AFTER APPLICABLE DEADLINES

The second part of the Motion seeks an order authorizing another round of open-ended discovery and the exchange of additional expert reports. The basis for this is the claim that:

Prior to the issuance of the Court’s “opinion and order,” the parties’ efforts in this case were primarily focused around legal preemption arguments and it was not

clear what particular factual issues might be deemed relevant in determining the validity of the state statutes.

Motion, p. 6. This is simply not true. Early in this case the parties spent a significant amount of time negotiating a stipulation of fact. When that failed, Verizon Wireless identified the facts it would rely on at trial, and supported those statements of fact with affidavits. Defendants/Intervenors had every opportunity to either conduct discovery of Verizon Wireless or develop additional testimony through expert witnesses. Having not done so to their satisfaction, they are trying to do so now, eighteen months after the applicable deadlines have passed.

The Defendants/Intervenors identify a series of factual issues on page 6 of their Motion that would presumably be addressed through this supplemental discovery process. Most, if not all, of these issues were raised early in this case. For example, Issue (4) is “whether any technology exists to permit the identification of locations from which a call originates from a customer of a CMRS provider that could be ‘readily implemented without burdens,’ and what extent of these burdens may be.” Defendants/Intervenors have conducted discovery on this point, and Verizon Wireless has identified and described its witnesses’ anticipated testimony. *See* Exhibit A, pp. 1-3, 5-7. Defendants/Intervenors should not be given leave at this point to develop additional expert testimony on this issue, having chosen not to do so earlier. The same is true for the other “factual issues” identified in the Motion. Defendants/Intervenors have failed to demonstrate good cause as to why discovery or additional expert testimony is needed at this time, and their request should be denied.

C. CONCLUSION

Verizon Wireless believes that SDCL §§ 49-31-109 through -115 are preempted as applied to wireless traffic, and Verizon Wireless is prepared to proceed to trial expeditiously. The Court should deny the Motion and set a trial date at the March 23rd scheduling conference.

DATED this 15th day of February, 2007

LYNN, JACKSON, SHULTZ & LEBRUN, P.C.

By: /s/ Craig A. Pfeifle

Gene N. Lebrun

Craig A. Pfeifle

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612-977-8400

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on February 15, 2007 I electronically filed a true and correct copy of **Verizon Wireless' Response To Motion To Continue And Motion For Additional Discovery**, relative to the above-entitled matter, with the United States District Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

Ms. Rolayne Ailts Wiest
rolayne.wiest@state.sd.us

Ms. Margo D. Northrup
m.northrup@riterlaw.com

Service was made by first class mail, postage prepaid to the following:

Ms. Darla Pollman Rogers
Riter, Rogers, Wattier & Brown, LLP
319 S. Coteau
PO Box 280
Pierre, SD 57501

/s/ Craig A. Pfeifle
Craig A. Pfeifle

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
CENTRAL DIVISION

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 Dustin Johnson,
in their official capacities as the
Commissioners of the South Dakota Public
Utilities Commission,

Defendant,

South Dakota Telecommunications Ass'n and
Venture Communications Cooperative,

Intervenors.

Civil Number 04-3014

**PLAINTIFF VERIZON WIRELESS'
ANSWERS TO INTERVENORS'
AND DEFENDANT'S SECOND
SET OF INTERROGATORIES,
REQUEST FOR PRODUCTION OF
DOCUMENTS, AND REQUEST FOR
ADMISSION**

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 ("Verizon Wireless") and its attorneys of record, Philip R. Schenkenberg and Gene N. Lebrun hereby answer South Dakota Telecommunications Association and Venture Communications Cooperative (collectively "Intervenors") and Defendants Bob Sahr, Gary Hanson, and Dustin Johnson in their official capacities as the Commissioners of the South Dakota Public Utilities Commission's SECOND SET OF INTERROGATORIES, REQUEST FOR PRODUCTION, AND REQUEST FOR ADMISSION.

INTERROGATORIES

1. It is stated in the response to Defendant's and Intervenors' Interrogatory 1.f. that "[w]ireless carriers, including Verizon Wireless, generally do not have the capability of determining on a real time basis whether a call is intraMTA, InterMTA and interstate, or interMTA and intrastate." Related to this statement, please answer the following:

- a. Does Verizon Wireless currently have the capability of collecting and utilizing for any purpose, on a "real time basis," information as to the Verizon Wireless cell site location through which a call from one of its cellular customers is originated?
- b. Does Verizon Wireless currently have the capability to collect on a historical basis, (after a call originated on its network has been completed), information as to the Verizon Wireless cell site location through which a call from one of its cellular customers was originated? If yes, explain how this is accomplished.
- c. Does Verizon Wireless, under any circumstances, store and/or gather information that identifies the originating cell site location on calls made by Verizon Wireless customers in South Dakota? If yes, identify the circumstances where this information is stored and/or gathered.
- d. If Verizon Wireless does store and/or gather information identifying the originating cell site location on calls made by Verizon Wireless customers in South Dakota, describe clearly why this information is stored or gathered and for what purposes the information is used.
- e. If information identifying the originating cell site location on calls originated by Verizon Wireless customers is stored and/or gathered for any purpose, indicate how long the information is stored and or available for use by the company.

ANSWER:

- a. Verizon Wireless objects to this request as seeking information that is neither admissible nor reasonably calculated to lead to the discovery of admissible evidence. SDCL §§ 49-31-110 and 49-31-111 do not impose any obligations on Verizon Wireless based on the location of the originating cell site. Subject to that objection and without waiver thereof, Verizon Wireless responds that it does not have the capability of collecting and utilizing for any purpose, on a "real time basis," information as to the Verizon Wireless cell site location through which a call from one of its cellular customers is originated.
- b. Verizon Wireless objects to this request as seeking information that is neither admissible nor reasonably calculated to lead to the discovery of admissible evidence. SDCL §§ 49-31-110 and 49-31-111 do not impose any obligations on Verizon Wireless based on the location of the originating cell site. Subject to that objection and without waiver thereof, Verizon Wireless responds as follows:

As a call is processed by a switch, a temporary memory location is generated and contains information about the call. The information in this temporary memory location is then used to create an Automatic Message Accounting ("AMA") call record, which exists at the switch for 24-48 hours. The AMA call records are moved from the switch and the information is sent to Verizon Wireless' billing system, which converts the binary

AMA call record into a Call Detail Record ("CDR"). CDRs can be accessed quickly for two months, and remain accessible, though not readily, for one year.

Verizon Wireless is able to access information within CDRs by running various reports, and the company uses information within CDRs for network engineering, troubleshooting, customer care, marketing, and law enforcement purposes. The Company can also use this information to identify the number of calls or minutes of use sent to another carrier.

The AMA call record and the CDR contain an identifier for the originating cell site. This cell site identifier does not correlate, however, with a cell site's location, MTA, or state. Verizon Wireless has no system that correlates cell sites to their state and MTA. Nor does Verizon Wireless have a database that would correlate terminating NPA-NXXs to a state and MTA. As a result, while Verizon Wireless has information as to "cell site location through which a call from one of its cellular customers was originated," analysis of such information to determine the jurisdiction of a particular call would need to be done manually. Verizon Wireless does not have the ability to generate reports that would separate calls by terminating LEC and use the originating cell site identifier and terminating NPA-NXX to determine the amount of interMTA traffic. Verizon Wireless delivered over 8 million calls to South Dakota LECs in September, which would make generating such reports manually virtually impossible.

Verizon Wireless also creates an SS7 message using information within the temporary memory location (for example Called Party Number and Calling Party Number). However, SS7 messages do not contain originating cell site information, and cannot be used to collect originating cell site information on a historical basis..

- c. See response to subpart b above.
- d. See response to subpart b above.
- e. See response to subpart b above.

2. It is stated in response to Interrogatory 2 that Verizon Wireless witness John Clampitt will explain "that to deliver calls to South Dakota ILECs, Verizon Wireless commingles traffic that is switched at its Sioux Falls switch, and routes those calls to the appropriate direct or indirect interconnection facility for termination by the ILEC." Related to this statement, please answer the following:
 - a. Describe specifically all types of telecommunications traffic that are "commingled" at the Sioux Falls switch location by Verizon Wireless.
 - b. Describe in detail the methodology used by Verizon Wireless for the routing of traffic from that location to the "appropriate direct or indirect interconnection facility."

ANSWER:

- a. Verizon Wireless commingles commercial mobile radio service ("CMRS") traffic that is switched at the Sioux Falls switch. This includes both intraMTA and interMTA CMRS traffic.
 - b. There is no methodology that could explain all traffic engineering and routing that occurs on its South Dakota network. Generally, where Verizon Wireless has established a direct connection at an end office, it will program its switch to deliver calls destined to end users served by the end office switch and any remote switches. Other calls will be delivered through the tandem switch identified in the Local Exchange Routing Guide ("LERG"). Where Verizon Wireless does not maintain a connection from its originating switch to the applicable tandem or end office switch, it will generally deliver the call via a wholesale long distance provider.
-
3. It is also stated in response to Interrogatory 2 that "Verizon Wireless utilizes SS7 in nearly all of its South Dakota network and throughout its service territory." In regards to this statement, please answer the following:
 - a. Explain whether and how SS7 signaling data is utilized by Verizon Wireless to generate "call detail records" pertaining to wireless calls originated by Verizon Wireless' South Dakota customers.
 - b. If SS7 signaling data is utilized in any way to generate such records, identify specifically the signaling information that is used in this process.
 - c. If SS7 signaling information is not used in any way to generate "call detail records," describe the other resources or methods through which its "call detail records" are generated.

- d. With respect to any "call detail records" created by Verizon Wireless, describe all purposes for which such records are used.
- e. With respect to any "call detail records" created by Verizon Wireless, identify the information that is populated within such records.

ANSWER:

- a. As described in response to Interrogatory 2, information in the temporary memory location is used to generate a CDR and SS7 message. It would be incorrect, therefore, to say that SS7 signaling data are used to generate CDRs.
 - b. As noted in response to subpart a above, SS7 signaling data is not used to generate CDRs
 - c. As described in response to Interrogatory 1b, CDRs are generated using information from an AMA call record.
 - d. See response to Interrogatory 1b.
 - e. Verizon Wireless objects to this request as overbroad and as seeking information that is neither admissible nor reasonably calculated to lead to the discovery of admissible evidence. Subject to that objection and without waiver thereof, Verizon Wireless has identified a number of items included in CDRs in response to Interrogatory 4c.
4. It is also stated in response to Interrogatory 2 that "the company does not today have the capability to generate the requested reports that would require it to report traffic by intraMTA/interMTA and intrastate/interstate" . . . and that "[i]mplementing the mechanisms to generate these reports would require a major software upgrade, as well as significant administrative costs." Relating to this response, please answer the following:
- a. Indicate whether Verizon Wireless has conducted any specific research into changing its network and systems so that it is capable of reporting traffic by intraMTA/interMTA and intrastate/interstate. If yes, describe the extent of such research.
 - b. Indicate whether your answer claiming major upgrades and significant administrative costs would change in any way, if, in generating the traffic data or reports, it was not necessary to determine or include information identifying the actual physical location of the calling party.
 - c. Indicate specifically what changes would have to be made by Verizon Wireless to provide data or reports, including any or all of the following information:
 - i. Called party phone number

- ii. Calling party phone number
 - iii. Call start date and time
 - iv. Call stop date and time
 - v. Call duration (in seconds)
 - vi. Connecting tower identification at start of call
 - vii. MTA of tower at start of call
 - viii. Connecting wireless switch at start of call
 - ix. State in which the call originated
- d. Provide an estimate of the administrative costs that the company would incur in generating and providing to South Dakota ILECs data or traffic reports including the above information.

ANSWER:

- a. Verizon Wireless has researched various third party billing vendors and software systems that would allow it to measure traffic it terminates for purposes of billing originating carriers for reciprocal compensation. None of these solutions would use customer location or cell site information to measure traffic as intraMTA/interMTA and intrastate/interstate. Verizon Wireless has not conducted specific research into changing its network and systems to measure and report based on the requirements of Chapter 284.
- b. Verizon Wireless objects to this request as seeking information that is neither admissible nor reasonably calculated to lead to the discovery of admissible evidence because Chapter 284, which is at issue in the case, does not make it unnecessary to determine or include information identifying the actual physical location of the calling party. Subject to that objection and without waiver thereof, Verizon Wireless would be required to implement major upgrades and incur significant administrative costs to measure and report traffic as intraMTA/interMTA and intrastate/interstate, even if Verizon Wireless did not have to determine or include information identifying the actual physical location of the calling party, such as, for example, if Verizon Wireless were to use the originating cell site as a proxy for the physical location of the calling party.
- c. Verizon Wireless objects to this request as seeking information that is neither admissible nor reasonably calculated to lead to the discovery of admissible evidence. SDCL §§ 49-31-110 and 49-31-111 do not impose any obligations on Verizon Wireless to transmit reports containing this information.

Verizon Wireless does not have automated mechanisms that would allow it to send any reports to terminating carriers for intercarrier compensation purposes. In order to send any reports Verizon Wireless would have to purchase and implement software that would take information from CDRs, enhance that information where necessary, and generate reports that would be transmitted to terminating carriers. Verizon Wireless does not have such capability and would not expect to implement such capability because it is inconsistent with industry practice for originating carriers to expend resources in this manner to allow terminating carriers to send bills. If mechanisms existed to allow

Verizon Wireless to generate reports and send those to terminating carriers, the following information is in raw CDRs and could be provided in such reports:

- i. Called party phone number
- ii. Calling party phone number
- iii. Call start date and time
- v. Call duration (in seconds)
- vi. Connecting tower identification at start of call
- viii. Connecting wireless switch at start of call

The "Call stop date and time" is not in the CDR, but could be determined from the call duration. The "connecting tower identification at start of call" would identify the cell tower using a three digit number that would be meaningless to a terminating LEC. To be meaningful, this three-digit number would need to be further enhanced via a software program and database that would have to be created to correlate the originating cell tower to an MTA or state. See also response to Interrogatory 1b. Verizon Wireless would be unable to identify the state in which the call originated because some towers straddle state boundaries, and Verizon Wireless cannot determine the location of a caller for intercarrier compensation purposes.

- d. Verizon Wireless is unable to provide an estimate of these administrative costs. As noted above, Verizon Wireless would need to implement a system giving it the ability to measure and report for intercarrier compensation purposes, purchase customized software to sort by MTA and state, and create and maintain a database that would allow the software to accurately compare the originating cell tower and terminating NPA-NXX.

Other costs would include system resource costs, the cost of storing and backing up the data records, the costs associated with extracting and transmitting data once the system were set up.

- 5. In part, it is indicated in response to Interrogatory 5.d. that certain physical connections between Verizon MSCs in Fargo and Sioux Falls and between MSCs in Minneapolis and Golden Valley and Sioux Falls are "not presently activated." Relating to this response, please answer the following:

- a. Explain what Verizon Wireless means in saying that these connections are not "presently activated," and explain why these connections or facilities are not "presently activated."
- b. In regards to these connections, explain what affect their non-activated status has on the routing of Verizon Wireless traffic to ILECs in South Dakota.

- c. Indicate if and when these connections have been activated in the past, and if so, on what dates they were de-activated.
- d. Indicate approximately when each of these connections will be activated.
- e. Indicate whether, when these connections are activated, it will impact the volume of traffic that is terminated by Verizon Wireless to South Dakota ILECs through interexchange carriers. If the volume of traffic terminated through interexchange carriers will be affected, indicate whether more or less traffic will be terminated through interexchange carriers when the connections or facilities are activated.

ANSWER:

- a. With regard to trunks between Sioux Falls and Golden Valley, Verizon Wireless was in the process of establishing the trunks when the first set of responses was due. Those trunks were brought on line for the first time on October 1, 2005. As of October 1, 2005, Verizon Wireless cell sites in the areas of St. Cloud Minnesota were connected to Verizon Wireless' Sioux Falls MSC. This was done because of capacity issues related to Verizon Wireless' Minneapolis and Golden Valley MSCs. The trunks between Sioux Falls and Golden Valley will be used for mobile-to-land calls originating in St. Cloud that will be terminated over local trunks in Minnesota. These trunks will also be used for calls delivered to Verizon Wireless in Minnesota, to be terminated to customers served by the sites in St. Cloud. In November or December of 2005, sites in and around Rochester Minnesota will be connected to Verizon Wireless' Sioux Falls switch, and traffic to and from these sites will be routed over trunks between Sioux Falls and Golden Valley in the same manner as traffic to or from St. Cloud sites.

With regard to trunks between Sioux Falls and Fargo, Verizon Wireless was in the process of establishing the trunks when the first set of responses was due. Those trunks were brought on line for the first time on October 4, 2005. As of October 4, 2005, Verizon Wireless began using those trunks to deliver mobile-to-mobile calls and mobile-to-land calls originating in North Dakota (in MTA 12 (Minneapolis)) and terminating to NPA-NXXs rated to the Sioux Falls rate center (in MTA 12 (Minneapolis)).

- b. With regard to the Sioux Falls-Golden Valley trunk group, now that these trunks are activated, there is some traffic originated in Minnesota that will be switched in Sioux Falls and delivered over local trunks to be terminated to SDTA companies. Previously, calls originated in St. Cloud were delivered via wholesale interexchange carrier. Similarly, mobile to land calls today originating in the Rochester area and terminated to SDTA companies are today delivered via wholesale interexchange carrier. That will change once the Rochester sites are connected to the Sioux Falls switch.

With regard to the Sioux Falls-Fargo trunk group, now that these trunks are activated, there is some traffic originated in North Dakota that will be switched in Sioux Falls and delivered over local trunks to be terminated to LECs with numbers local to Sioux Falls. Previously these calls were delivered via wholesale interexchange carrier.

- c. These trunk groups were not previously activated.
- d. See response to subpart a above.
- e. See response to subpart b above.

6. In response to Interrogatory 6.d., it is stated by Verizon Wireless that the "Carrier Identification" parameter is normally dropped on calls that use the first interconnection scenario. In regards to this answer, please indicate why the Carrier Identification parameter is dropped in these circumstances. Also, please identify the alternatives that Verizon Wireless could consider to ensure that the Carrier Identification parameter is not dropped during the process of call termination.

ANSWER:

The "Carrier Identification" parameter is not populated on calls that are transited through Qwest to be terminated to SDTA companies. The "Carrier Identification" parameter is used to identify the interexchange carrier to which a call will be routed, and this is unnecessary on calls transited through Qwest and terminated to SDTA companies. Verizon Wireless' prior response should have indicated that the field is "not populated" instead of indicating that the parameter is "dropped" in the first interconnection scenario.

7. Please indicate whether Verizon Wireless terminates through its network in South Dakota telecommunications traffic that is originated by the customers of other wireless or wireline carriers. If the answer is yes, please provide the following:
- a. Describe any signaling information requirements Verizon Wireless has in its agreements with these other carriers. If this varies among the interconnected carriers, please explain;
 - b. Describe how the signaling information identified above under the various interconnections arrangements or scenarios may vary in these arrangements with third party carriers;
 - c. Describe what steps are taken by Verizon Wireless to ensure that the traffic received by Verizon Wireless from these other carriers contains signaling information that is consistent with current industry standards; and

- d. Specifically, describe how Verizon Wireless determines from the interconnected carrier if the call delivered to Verizon Wireless for transiting is inter- or intra-MTA.

ANSWER:

Verizon Wireless does not transit calls from other telecommunications carriers through its network to be terminated to South Dakota LECs.

8. With respect to the total minutes of use delivered to each of the Point Codes or switch addresses listed below, please identify separately the terminated minutes of use that originated and terminated in the same MTA, and the terminated minutes of use that originated and terminated in two different MTAs (for purposes of providing these "Intra" and "Inter" MTA numbers, the location of the originating cell site at the start of the call should be considered the point of origination for purposes of determining the MTA where the call originated).
 - a. Wessington Springs (222.211.023)
 - b. Gettysburg (222.211.019)
 - c. Hitchcock (222.211.009)

ANSWER:

Verizon Wireless understands from the Intervenor's representative that this request seeks information limited to the time period from March 29, 2005 to April 28, 2005. Verizon Wireless objects to this request as seeking information that is neither admissible nor reasonably calculated to lead to the discovery of admissible evidence. This interrogatory asks Verizon Wireless to assume the location of the originating cell site is the point of origination. This is neither factually accurate nor consistent with SDCL §§ 49-31-110 and 49-31-111. In addition, the number of minutes from Verizon Wireless to the three identified point codes does not bear on the lawfulness of Chapter 284.

9. Referring to the cell site locations depicted on pages 3 through 5 of the exhibit provided with Verizon Wireless' response to Interrogatory 5.b, for each site shown that provides service that crosses an MTA boundary, please provide an individual signal propagation map that depicts accurately the level of service received by Verizon Wireless' customers from that site.

ANSWER:

Verizon Wireless objects to this request as seeking information that is neither admissible nor reasonably calculated to lead to the discovery of admissible evidence. Verizon Wireless further states that it does not maintain the information requested and objects to creating documents it does not have.

10. In Verizon Wireless' response (Page 6, Interrogatory Number 2) to INTERVENORS' AND DEFENDANT'S RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES, Verizon Wireless states that it "anticipates designating a company witness who will testify that the company does not today have the capability to generate the requested reports that would require it to report traffic" Please provide the name and title of said witness.

ANSWER:

John Clampitt
Verizon Wireless
2785 Mitchell Drive, MS 7-1
Walnut Creek, CA 94598
(925) 708-7018

Ed Harrop
Verizon Wireless
Three Verizon Place
Mail Stop: GA3B1REG
Alpharetta, GA 30004
(678) 339-4258

AS TO ANSWERS:

VERIFICATION

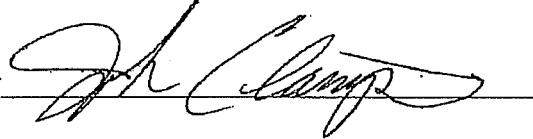
John Clampitt, being duly sworn, deposes and says:

I am the witness for Verizon Wireless. I have read the foregoing Answers to Intervenor's and Defendant's Second Set of Interrogatories, Request for Production of Documents, and Request for Admission. These documents were prepared with the assistance and advice of counsel and the assistance of employees and representatives of Verizon Wireless. The responses and answers set forth herein, subject to inadvertent or undiscovered errors, are based on and therefore necessarily limited by the records and information still in existence, presented or recollected and thus far discovered in the course of the preparation of these answers. Consequently, Verizon Wireless reserves the right to make any changes in the answers if it appears at any time that omission or errors have been made therein or that more accurate information is available. Subject to the limitations set forth herein, these responses are true to the best of my own knowledge, information and belief.

VERIZON WIRELESS

Dated: October 12, 2005.

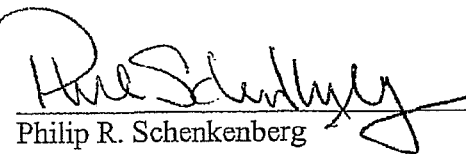
By

A handwritten signature in black ink, appearing to read "John Clampitt", is written over a horizontal line.

AS TO OBJECTIONS:

**LYNN, JACKSON, SHULTZ &
LEBRUN, P.C.**

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ATTORNEYS FOR PLAINTIFFS

REQUEST FOR PRODUCTION OF DOCUMENT

1. In Verizon Wireless' response (Page 5, Interrogatory Number 2) to INTERVENORS' AND DEFENDANT'S RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES, Verizon Wireless states that Mr. Miller will "sponsor a map indicating the location of those cell towers and the signal coverage those towers provide." Please provide that map.

RESPONSE:

Those were previously produced as Confidential Ex. Int-5b, and were supplemented with an additional map marked as Ex. Supp. 5b.

REQUEST FOR ADMISSION

1. Admit that in addition to requiring that originating carriers of local and non-local telecommunications traffic transmit signaling information in accordance with commonly accepted industry standards, the provisions of SDCL 49-31-10 through 49-31-11 require the originating carrier, if the carrier is delivering both local and non-local telecommunications traffic and/or both intrastate and interstate non-local telecommunications traffic, to separately provide the terminating carrier with other traffic data or traffic report information that enables the terminating carrier to appropriately classify the telecommunications traffic and bill the appropriate and applicable charges.

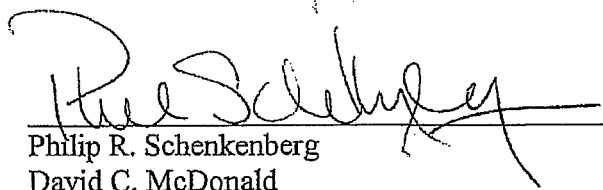
RESPONSE:

Verizon Wireless denies that SDCL 49-31-10 and SDCL 49-31-11 are accurately quoted and refers Defendants/Intervenors to the text of Chapter 284.

Dated: October 14, 2005

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A handwritten signature in black ink, appearing to read "Philip R. Schenkenberg", is written over a horizontal line.

Philip R. Schenkenberg

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