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October 1, 2004

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Kathy Hammond
United States Clerk of Courts
225 South Pierre St., #405
Pierre, South Dakota 57501

Re: Verizon Wireless vs. PUC
Civil Number 04-3014
Our File Number 04-181

RECEIVED
OCT 04 2004
SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

Dear Kathy:

Enclosed herein for filing in the above-named case are the following:

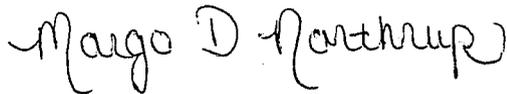
MOTION TO INTERVENE AS DEFENDANTS;

ANSWER OF INTERVENORS;

CERTIFICATE OF SERVICE

By copy of this letter, I am also serving those persons named on the Certificate of Service with a copy of each of the above documents.

Sincerely,



Margo D. Northrup
Attorney at Law

MDN/ph

Enclosures

CC: Rolayne Wiest (with enclosures) ✓
Jeffrey P. Hallem (with enclosures)
Gene N. Lebrun and Steven J. Oberg (with enclosures)
Philip R. Schenkenberg (with enclosures)

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OCT 04 2004

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

UNITED STATES DISTRICT COURT FOR THE
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 Jim Burg, in
their official capacities as the Commission-
ers of the South Dakota Public Utilities
Commission,

Defendant,

South Dakota Telecommunications Asso-
ciation and Venture Communications Co-
operative, Applicants for Intervention.

Civil Number 04-3014

MOTION TO INTERVENE
AS DEFENDANTS

MOTION TO INTERVENE

SOUTH DAKOTA TELECOMMUNICATIONS ASSOCIATION (hereinafter "SDTA") and VENTURE COMMUNICATIONS COOPERATIVE (hereinafter "Venture") (collectively referred to as "Intervenors"), by and through their attorney, Darla Pollman Rogers, of Riter, Rogers, Wattier & Brown LLP, Pierre, South Dakota, move pursuant to FRCP 24 to intervene as defendants in the above-entitled action, in order to assert the defenses set forth in their proposed Answer, a copy of which is hereto attached. This Motion is based upon the following grounds:

1. INTERVENTION OF RIGHT (FRCP 24(a)(2))

A. Intervenors' Interest in Transaction

1. SDTA is a South Dakota corporation whose members consist of local exchange carriers (hereinafter "LECs") (see Attachment A). SDTA, formerly the South Dakota Independent Telephone Coalition, Inc. (SDITC) was incorporated in 1983, and is organized for the purpose of representing the common interests of independent, cooperative, and municipal telephone companies operating as LECs in the state of South Dakota. SDTA as an association advocates for these LECs in regulatory and legislative affairs where their common interests may be affected.

2. Venture is one of the member companies of SDTA. Venture is a South Dakota cooperative formed in 1952 for the purpose of furnishing, improving, and expanding communication services to its members on a cooperative basis. Venture is a non-profit organization, and has grown into a cooperative comprised of approximately 13,500 access lines in central and northeastern South Dakota. Its members depend upon Venture for dependable state-of-the-art telecommunications services at a reasonable cost.

3. At various association meetings and through communications among member companies, SDTA became aware of a problem encountered by member LECs with regard to collection of access fees paid by interexchange carriers (IXCs) and wireless carriers to access local lines of LECs. Venture, a member of SDTA, has experienced this problem.

4. To address this issue, Intervenors caused Senate Bill 144 to be introduced in the 2004 South Dakota Legislative Session. SDTA drafted Senate Bill 144,

caused it to be introduced, amended it extensively, and was instrumental in lobbying its passage. Senate Bill 144 is now codified as SDCL 49-31-109 through 49-31-115.

5. Senate Bill 144 is the subject matter of the current action. If this case is decided without SDTA's involvement, SDTA will not be in a position to protect the economic interest of its members. Unlike the South Dakota Public Utilities Commission, each of the SDTA member LECs has a direct economic interest associated with the continued enforcement of the Senate Bill 144 provisions. Thus, SDTA clearly has "an interest relating to the . . . transaction which is the subject of the action," as required by FRCP 24(a)(2). Additionally, if this case is decided without Venture's involvement, Venture will not be in a position to protect its own economic interest.

B. Disposition of Action Impedes Intervenors' Ability to Protect Interests

1. One of the key elements of Senate Bill 144 is to require carriers to provide sufficient signaling information to LECs so that the LECs can not only bill the appropriate carrier, but can also properly categorize and bill local traffic versus non-local traffic.

2. Without the protections and requirements imposed by Senate Bill 144, LECs are unable to accurately bill charges and collect the fees to which they are entitled for delivery of telecommunications traffic to their local service areas.

3. Intervenors' intervention in this lawsuit is necessary for Intervenors to protect the interests of Intervenors, including all members of SDTA.

C. Intervenors' Interests are not Adequately Represented by Existing Parties

1. Intervenors support the Commissioners of the South Dakota Public Utilities Commission (PUC) as the named defendant in this action. Intervenors concur with and support the Answer filed by the PUC in this docket.

2. Intervenors would point out, however, that the PUC is charged with the duty of representing all entities, not just LECs. The PUC is also charged with the duty to represent the public interest of the people of South Dakota. Intervenors represent the interests of wireline companies whose needs are not always the same as other utility companies.

3. Because the Commissioners of the PUC, as the only named defendant, represent broader interests than those of Intervenors, Intervenors' interests in this action cannot be adequately represented by the existing parties.

II. PERMISSIVE INTERVENTION (FRCP 24(b))

Alternatively, Intervenors move for leave to intervene as defendants pursuant to FRCP 24(b).

A. Timely Application

1. The Complaint in this case was filed on August 6, 2004, and was subsequently amended on August 31, 2004. An Answer was filed by Defendant on September 7, 2004. To date, that is all of the pleadings that have been filed in this case.

2. This Motion is timely because it is being submitted at the outset of the action.

3. The requested intervention will not delay or prejudice the adjudication of the rights of the Plaintiff and the Defendant.

B. Intervenors' Defense has Common Questions
of Law and Fact with the Main Action

1. Intervenors' defense supports Defendant's position against preemption and denial of injunctive relief.

2. In addition, it is Intervenors' position that Plaintiff inaccurately states the requirements of Senate Bill 144, which results in misinterpretations of the law that are fatal to Plaintiff's claim.

For all of the foregoing reasons, Intervenors respectfully request the court to grant the relief prayed for herein.

DATED this 1 day of October, 2004.


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Margo D. Northrup
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P. O. Box 280
Pierre, South Dakota 57501
Telephone (605) 224-5825

Attorneys for SDTA and Venture
Applicant for Intervention

Members of the South Dakota Telecommunications Association

Alliance Communications Cooperative
Armour Independent Telephone Company¹
Beresford Municipal Telephone Company
Bridgewater-Canistota Independent Telephone¹
Cheyenne River Sioux Tribe Telephone Authority
Faith Municipal Telephone Company
Fort Randall Telephone Company
Golden West Telecommunications Cooperative
Interstate Telecommunications Cooperative
James Valley Telecommunications
Jefferson Telephone Company dba Long Lines
Kadoka Telephone Company¹
Kennebec Telephone Company
McCook Cooperative Telephone Company
Midstate Communications, Inc.
Mount Rushmore Telephone Company
Roberts County Telephone Cooperative
RC Communications, Inc.²
Santel Communications Cooperative, Inc.
Sioux Valley Telephone Company¹
Splitrock Properties, Inc.³
Stockholm-Strandburg Telephone Company
Swiftel Communications
Tri-County Telcom, Inc.
Union Telephone Company¹
Valley Telecommunications Cooperative
Venture Communications Cooperative
Vivian Telephone Company¹.
West River Cooperative Telephone Company
West River Telecommunications Cooperative
Western Telephone Company

1. A subsidiary of Golden West Telecommunications Cooperative.
2. A subsidiary of Roberts County Telephone Cooperative Association
3. A subsidiary of Alliance Communications