

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.

Steve Kolbeck, 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

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

COMES NOW the South Dakota Telecommunications Association ("SDTA") and
Venture Communications Cooperative ("Venture") (the Intervenors herein) and
Commissioners, Steve Kolbeck, Gary Hanson, and Dustin Johnson in their official
capacities as the Commissioners of the South Dakota Public Utilities Commission,
(collectively referred to as the Defendants herein) and hereby respond to Verizon
Wireless' Response to Motion to Continue and Motion for Additional Discovery as
follows:

Although no one can predict the final action of the Federal Communications Commission ("FCC"), the Defendants and Intervenors believe that as set forth in their Motion to Continue and Motion for Additional Discovery filed on February 2, 2007 that there is strong reason to believe the FCC will act in the near future. In addition, it appears more likely than not that any FCC action on Phantom Traffic issues would attempt to address matters similar to those that are addressed under the challenged South Dakota statutes. Given the fact that the FCC is at this time considering federal regulations addressing Phantom Traffic, and given the likelihood that action at the federal level would have some affect on the continued validity of the related state statutes, Defendants and Intervenors are concerned with the scheduling in this case. We urge the Court to give recognition to the pending FCC proceedings and to defer the scheduling of any trial in this matter for a reasonable period of time to avoid imposing unnecessary litigation burdens.

The Motion before the Court which seeks an alteration of the established scheduling order is also based on the need for additional discovery. Defendants and Intervenors are seeking an opportunity for additional discovery in response to the Court's Opinion and Order on Plaintiff's Motion for Summary Judgment which brings clarity and emphasis to those issues that are deemed most relevant by the Court in reviewing the preemption claims that are presented in this matter. Further, the request for additional discovery is presented by the Defendant and Intervenors because the Plaintiff has already acted outside of the Court's current scheduling order and served its own additional discovery on the Defendants and Intervenors. On February 6, 2007, Verizon Wireless served a Third Set of Interrogatories and Second Set of Requests for Production of

Documents and made an informal request for a deposition of the Defendants and Intervenor's expert witness, Larry Thompson. Although responses may be provided to some of this additional discovery, Defendants and Intervenor's do object to the additional discovery insofar as it is not allowed under the current scheduling order. Further, Defendants and Intervenor's believe that if such discovery is permitted a reciprocal right should be extended to Defendants and Intervenor's to conduct similar additional discovery. Based on the arguments set forth in Defendants and Intervenor's Motion to Continue and Motion for Additional Discovery and the additional argument set forth herein, Defendants and Intervenor's request an extension to the current schedule for a period of at least six months. Along with this change to the current schedule, Defendants and Intervenor's request the following:

1. All parties should be given an opportunity to designate an additional witness, if deemed necessary.
2. Each party should be permitted one additional set of interrogatories, not to exceed 25 interrogatories.
3. Defendants and Intervenor's, and the Plaintiff should be given the option of deposing a named expert or witness. Verizon would then be able to complete its requested deposition of Larry Thompson.
4. All additional discovery permitted by the Court should be completed by May 1, 2007. This additional time would provide Defendants and Intervenor's the ability to complete any additional traffic studies that they may deem necessary that are more

specific to Verizon traffic terminated into the Venture Communications exchanges.

The Defendants and Intervenors have set forth clearly the reasons they believe that the FCC will act in the near future. They have also requested very limited discovery to address items that will be important for the Court, if in fact, it must ultimately decide this case before the FCC takes action. Defendants and Intervenors request that the Motion to Continue and Motion for Additional Discovery be granted.

Dated this 23 day of February, 2007.

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ATTORNEYS FOR INTERVENORS
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CERTIFICATE OF SERVICE

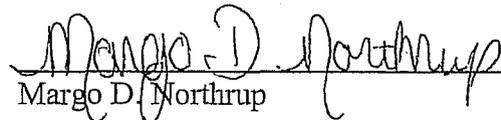
I hereby certify that a true and correct copy of the copy was served via the method(s) indicated below, on the 23 day of February, addressed to:

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