

Schenkenberg, Philip

From: Schenkenberg, Philip
Sent: Thursday, July 26, 2012 7:51 AM
To: 'Carter, David'; Karen.Cremer@state.sd.us; jcremer@bantzlaw.com; TJW@gpnlaw.com
Cc: dprogers@riterlaw.com; M.Northrup@riterlaw.com; Lawson, William [LEG]; Browning, Diane C [GA]
Subject: RE: TC09-098 - SDN v. Sprint v. NVC - MSJ - Briefing Schedule
Attachments: Order Approve Procead Sch.pdf

Sorry for not responding yesterday – I was out all afternoon. You misunderstand our position. The circumstances with respect to Sprint's expert do prevent Sprint from responding to the SJ motion on the schedule you propose. Our expert will be assisting in identifying and determining the facts that are disputed, and identifying and determining the additional facts that need to be put into the record that will bear on the legal questions present. He will be analyzing facts and providing opinions on matters that will bear on the questions before the Commission – whether Northern Valley has provided local exchange service to CCCs, whether Northern Valley has been in legitimate end user relationships with CCCs, the extent to which Northern Valley has engaged in various regulatory violations, and whether, in his opinion, access charges are due based on these facts. We need to look for an alternate date, and it makes no sense to ask the Commission to hear cross motions on separate dates. If Northern Valley does not agree we will file a motion tomorrow asking the Commission to provide us with that relief.

David/Jim, can you respond to the timing question I raised – can we agree the scope of this case runs through the end of 2011 (as opposed to the current stipulation of August 2011 per the attached)?

Thanks. I am available today to discuss further.

Phil

Phil Schenkenberg
Briggs and Morgan, P.A.
Direct 612.977.8246
Fax 612.977.8650
pschenkenberg@briggs.com
2200 IDS Center
80 South 8th Street
Minneapolis, MN 55402
Admitted in Minnesota and Iowa

From: Carter, David [mailto:Carter.David@ARENTFOX.COM]
Sent: Wednesday, July 25, 2012 10:46 AM
To: Karen.Cremer@state.sd.us; jcremer@bantzlaw.com; Schenkenberg, Philip; TJW@gpnlaw.com
Cc: dprogers@riterlaw.com; M.Northrup@riterlaw.com
Subject: RE: TC09-098 - SDN v. Sprint v. NVC - MSJ - Briefing Schedule

All:

After further discussion and consultation, Northern Valley would prefer to proceed with having its pending motion for summary judgment resolved at the currently-scheduled August 28th hearing. As we understood the call this morning, the circumstances with Sprint's expert witness hinders Sprint's ability to lodge what it describes as a counter-motion, but does not impact its ability to respond, in the time period suggested by Jim's email, to Northern Valley's motion for partial summary judgment that was filed two weeks ago. Because Northern Valley contends that it is entitled to summary judgment as a matter of law on the issues contained in the motion, Sprint's response will be sufficient to enable the Commission to resolve that motion (and, indeed, has the potential to save both the Commission and the

parties time and expenses related to Sprint's motion and further discovery). In short, Northern Valley respectfully declines to agree to a delay of 45 or more days in resolving the pending motion.

Accordingly, we would ask Karen to keep the current hearing date and for Sprint to confirm when it will file its reply.

Sincerely,
David

David Carter
Attorney

Arent Fox LLP | Attorneys at Law
1050 Connecticut Avenue, NW
Washington, DC 20036-5339
202.857.8972 DIRECT | 202.857.6395 FAX
carter.david@arentfox.com | www.arentfox.com

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From: Karen.Cremer@state.sd.us [mailto:Karen.Cremer@state.sd.us]
Sent: Wednesday, July 25, 2012 11:08 AM
To: jcremer@bantzlaw.com; pschenkenberg@briggs.com; TJW@gpnalaw.com
Cc: Carter, David; dprogers@riterlaw.com; M.Northrup@riterlaw.com
Subject: RE: TC09-098 - SDN v. Sprint v. NVC - MSJ - Briefing Schedule

One of the Commissioners will be joining the October 9 meeting by phone. The scheduler is looking for a date in October with a 9:30 start time.

From: Jim Cremer [mailto:jcremer@bantzlaw.com]
Sent: Tuesday, July 24, 2012 11:02 AM
To: Philip Schenkenberg; Talbot J. Wiczorek
Cc: Carter, David; Darla Pollman Rogers; Margo Northrup; Cremer, Karen
Subject: TC09-098 - SDN v. Sprint v. NVC - MSJ - Briefing Schedule

Phil:

NVC filed its motion for summary judgment on July 11. To give sufficient time for the Commission to review the pleadings prior to the August 28 hearing date, we suggest the following briefing schedule:

Sprint Reply	July 31
NVC Response	August 21

This gives Sprint 20 days to reply and NVC 20 days to respond to Sprint and the Commission a week to prepare.

Jim Cremer | Bantz, Gosch & Cremer, L.L.C.
305 Sixth Ave. SE | PO Box 970 | Aberdeen, SD 57402-0970
(605) 225-2232 | Fax (605) 225-2497

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