

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA**

IN THE MATTER OF THE PETITION OF)	
CELLCO PARTNERSHIP AND ITS)	
SUBSIDIARIES AND AFFILIATES TO)	TC10-090
AMEND AND CONSOLIDATE ELIGIBLE)	
TELECOMMUNICATIONS CARRIER)	
DESIGNATIONS IN THE STATE OF)	
SOUTH DAKOTA AND TO PARTIALLY)	
RELINQUISH ETC DESIGNATION)	

**SUPPLEMENT TO MOTION TO COMPEL DISCOVERY RESPONSES FROM
GOLDEN WEST**

Cellco Partnership d/b/a Verizon Wireless (“Cellco”), on behalf of itself and its subsidiaries and affiliates offering commercial mobile radio services (“CMRS”) in the State of South Dakota (collectively, “the Petitioners”) hereby supplement their motion to compel intervenor Golden West Telecommunications Cooperative, Inc. (“Golden West”) to respond to discovery requests. As part of the meet-and-confer process, Golden West committed to identify its affiliates and subsidiaries. In reliance on Golden West’s commitment, the Petitioners excluded this issue from their motion to compel against Golden West filed on April 21, 2011. After the motion to compel was filed, Golden West stated it would not produce the information it had previously committed to produce. Accordingly, the Petitioners hereby supplement their April 21 motion to compel.

I. BACKGROUND

Petitioners incorporate by reference the background information set forth in their April 21 motion to compel. As recounted in that motion, Petitioners attempted to resolve this discovery dispute without involvement of the Commission by sending a letter to, and holding a substantive telephone conference with, Golden West’s representatives. There were two categories of information that Petitioners sought from Golden West that were at issue in this meet-and-confer

process: (1) the confidential portions of ETC filings and reports submitted by Golden West to the Commission; and (2) identification of Golden West's affiliates and subsidiaries. In a letter dated April 20, 2011, Golden West refused to produce the first category of information, but offered to produce the information about its affiliates and subsidiaries. *See Exhibit A.* Petitioners accepted Golden West's offer as the affiliates and subsidiaries issue. *See Exhibit B.* Petitioners accordingly narrowed their motion to compel to seek only the confidential ETC filings and reports. *See April 21, 2011 Motion to Compel.*

On Monday, April 25, Golden West's counsel informed Petitioners that Golden West's offer had been conditional: Golden West would produce the supplemental information only if Petitioners did not file any motion to compel against Golden West at all. *See Exhibit C.* The letter containing Golden West's offer contains no such condition. *See Exhibit A.*

Thus, Petitioners are left with no choice but to supplement their April 21, 2011 motion to compel to include the affiliate and subsidiary discovery request – set forth below in more detail – as to which Golden West offered to provide a response, and then refused to do so.

II. GOLDEN WEST MUST PROVIDE A SUBSTANTIVE RESPONSE TO PETITIONERS' DISCOVERY REQUESTS

Petitioners incorporate by reference the legal standard for a motion to compel set forth in their April 21 motion to compel.

A. Golden West Must Identify Its Subsidiaries and Affiliates (Interrogatory No. 12)

Petitioners' Interrogatory No. 12 states:

12. Identify all of Golden West's subsidiaries, affiliates, and related entities operating in the State of South Dakota. Provide an organizational chart showing the relationship between all identified entities.

Golden West provided no response whatsoever, stating only the following objection:

Golden West objects to this Interrogatory as it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible

evidence. Further, Golden West objects to the extent it seeks to impose a burden on Golden West which neither the Administrative Rules of South Dakota nor the South Dakota Rules of Civil Procedure impose.

Golden West should be compelled to provide responses to Interrogatory No. 12 because it appears that another party – James Valley Wireless – will be objecting to the Petition on the notion that it is somehow improper or impossible for a carrier to provide service as an ETC through the use of corporate affiliates' assets, facilities, and licenses. Petitioners are entitled to learn the facts about Golden West's corporate structure in order to develop rebuttal arguments to James Valley Wireless' apparent argument. Golden West must be compelled to provide a substantive response to Interrogatory No. 12.

III. CONCLUSION

Because of Golden West's surprising and baseless decision to refuse to follow through on its offer to produce information, the Petitioners have to supplement their motion to compel as set forth herein. The Commission should compel Golden West to respond to Petitioners' discovery requests, as identified both in the April 21 motion to compel and in this supplement, so that Petitioners have a fair opportunity to discover facts as necessary to present a full defense to the allegations and arguments that appear likely to be presented at trial.

Dated: April 28, 2011.

Respectfully submitted,

GUNDERSON, PALMER, NELSON &
ASHMORE, LLP

By

Talbot J. Wiczorek

Assurant Building
440 Mt. Rushmore Road
P.O. Box 8045
Rapid City, SD 57709-8045
Telephone: (605) 342-1078
Facsimile: (605) 342-0480

Mark J. Ayotte (MN # 166315)
Matthew A. Slaven (MN #288226)
Andrew M. Carlson (MN #284828) *pro hac
vice pending*
BRIGGS AND MORGAN, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402-2157
Telephone: (612) 977-8400
Fax: (612) 977-8650
mayotte@briggs.com
mslaven@briggs.com
acarlson@briggs.com

*COUNSEL FOR CELLCO PARTNERSHIP
D/B/A VERIZON WIRELESS AND ITS
SUBSIDIARIES AND AFFILIATES*

CERTIFICATE OF SERVICE

The undersigned certifies that on the 28th day of April, 2011, I served a true and correct copy of **CELLCO PARTNERSHIP d/b/a VERIZON WIRELESS's Supplement to Motion to Compel Discovery Responses from Golden West** in the above-entitled matter, via electronic mail to:

KARA SEMMLER
STAFF ATTORNEY
SDPUC
500 EAST CAPITOL
PIERRE SD 57501
karen.cremer@state.sd.us

BRIAN ROUNDS
STAFF ANALYST
SDPUC
500 EAST CAPITOL
PIERRE SD 57501
brian.rounds@state.sd.us

DARLA POLLMAN ROGERS
ATTORNEY AT LAW
RITER ROGERS WATTIER & NORTHRUP LLP
PO BOX 280
PIERRE SD 57501-0280
dprogers@riterlaw.com

MARGO D NORTHRUP
ATTORNEY AT LAW
RITER ROGERS WATTIER & NORTHRUP LLP
PO BOX 280
PIERRE SD 57501-0280
m.northrup@riterlaw.com

JAMES M. CREMER
ATTORNEY AT LAW
BANTZ GOSCH & CREMER LLC
PO BOX 970
ABERDEEN SD 57402-0970
jcremer@bantzlaw.com

RICHARD D. COIT
SDTA
PO BOX 57
PIERRE SD 57501
richcoit@sdtaonline.com



Talbot J. Wiczorek