

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

IN THE MATTER OF THE COMPLAINT)	
OF VENTURE COMMUNICATIONS)	SD PUC DOCKET CT20-001
COOPERATIVE AGAINST AT&T)	
MOBILITY)	
)	

**AT&T MOBILITY'S OBJECTIONS TO VENTURE COMMUNICATION
COOPERATIVE'S PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

COMES NOW, New Cingular Wireless PCS, LLC dba AT&T Mobility ("AT&T") through counsel, and makes and files its objections to Venture Communications Cooperative's ("Venture") proposed Findings of Fact and Conclusions of Law as hereinafter set forth.

GENERAL OBJECTIONS

The Commission at hearing on August 15, 2023, ruled that in two instances (1) that AT&T failed to pay for local interconnection facilities ordered by AT&T, and access services requests at the rate set forth in Venture's price list; and (2) that Venture's prayer for relief was granted and AT&T was ordered to pay all unpaid interconnection charges and late payment charges thereon, as well as prejudgment and post judgment interests on all unpaid balances. The Commission further denied AT&T the relief it sought in its counterclaim against Venture. The Proposed Findings of Fact and Conclusions of Law should be limited in the first instance to such facts and conclusions that comport with the ruling of the commission on August 15, 2023.

As a general matter, AT&T does not believe the record supports the ruling of the Commission and the denial of its claims against Venture and the findings of fact and conclusions of law proposed by Venture in support of the Commission's ruling are generally objected to on that basis. Any such rights of AT&T regarding this position and the record are reserved, the hereinafter objections notwithstanding.

OBJECTIONS TO FINDINGS OF FACT

With the general objection reserved, specific objections in particular proposed findings of fact (“Fact”) are as follows:

Fact 9: At the time of the initial dispute 96 DSO Trunks as alleged were not ordered. The 96 trunks as alleged by Venture were not all ordered until the fall of 2017 with the initial billing in dispute beginning in the spring of 2018.

Facts 23-26: Are objected to as an incomplete explanation of bill and keep applicability in this instance and the Commission did not rule that the amendment to the parties ICA was inapplicable to the traffic at hand. Further, as the record and briefing of AT&T established bill and keep applies to intraMTA (local) traffic that is exchanged by both parties.

Facts 28-32: Are objected to as they are recitations of the arguments of Venture on matters that occurred at hearing, opinion and explanatory testimony, as well as an effort by Venture to have the Commission to find as a fact that the testimony was not accurate by AT&T’s witness when the ruling of the Commission was that it ordered facilities and needs to pay for those. Such attempt to inject argument are not proper determinations of fact by the Commission. The Commission has ruled, the record stands for itself.

OBJECTIONS TO CONCLUSIONS OF LAW

With the general objection reserved, AT&T objects to the particular conclusions of law (“Conclusions”) as follows:

Conclusions 2-4: Are objected to as they overstate the findings of the Commission pursuant to its ruling on August 15, 2023. The Commission ruled that AT&T had an obligation to pay the amounts that it had ordered but nothing more. The Commission did not rule there was a course of conduct nor is its ruling

based on the Common Law of Contracts, rather than that it had simply ordered facilities pursuant to the ASR request and to pay for those under the prices that Venture asserts are appropriate. The Commission ruled a contract existed and AT&T was obligated under it. References to course of conduct came from a mistaken belief that the Uniform Commercial Code is relevant to the contractual dispute of the parties. See, Post Hearing Brief of AT&T. This dispute arose when three new orders were placed in late 2017 by AT&T.

Conclusion 2: In the ICA, appendix A 6, the default shared facility factor is 77% AT&T and 23% Venture. This should reduce any judgment rendered in the favor of Venture. See also section 3.3.2 of the ICA, charges will be shared by the Parties based on their proportionate use as specified in appendix A.

Conclusion 6: AT&T's position and thus the objection remains that DS1s were ordered from SDN pursuant to Section 3.3.1 of the ICA. AT&T connected from its MTSO in Omaha to SDN and SDN used the T1s to transport calls to the various Venture end offices.

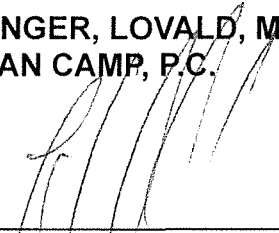
Conclusion 9: AT&T objects as this misstates or ignores that bill and keep applies to intraMTA (local) traffic that is exchanged by both parties.

Conclusions 9-13: are objected to in that the Commission did not rule at the hearing of August 15, 2023, to the specificity proposed. Merely the Commission denied that AT&T was improperly billed by Venture pursuant to its pricing catalog and as such the Commission denied AT&T's prayer for relief. A Commissioner noted if one determination was made (ruling in favor of Venture) the other in opposite (ruling in favor of AT&T) would not be.

Further, the relief granted needs to reflect the Commission denied Venture's request for costs and expenses.

Dated this 22nd of August, 2023.

**OLINGER, LOVALD, MCCAHERN
& VAN CAMP, P.C.**



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CERTIFICATE OF SERVICE

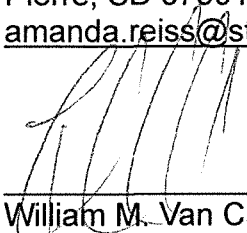
The undersigned hereby certifies that a true and correct copy of the foregoing in the above-entitled action was delivered by electronic mail this 22nd day of August, 2023, to the following:

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