

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF)	DOCKET No. CT20-001
THE COMPLAINT OF)	
VENTURE COMMUNICATIONS)	
COOPERATIVE AGAINST)	AFFIDAVIT OF DARLA POLLMAN ROGERS
AT&T MOBILITY)	
)	
)	

COMES NOW, Darla Pollman Rogers, Counsel for Venture, and being first duly sworn upon oath, hereby states the following:

1. I am a partner with Riter Rogers, LLP in Pierre, SD, and serve as legal counsel for Venture Communications Cooperative (“Venture”).
2. As Venture’s counsel, I have actively participated in Docket No. CT20-001 and have knowledge of the facts of the matter. I am also familiar with the events that necessitated the filing of the initial complaint and the proposed amended complaint.
3. On November 5, 2021, Venture requested an evidentiary hearing date of December 7, 2021 (which date was provided by PUC Staff) on the initial complaint. Paragraph 8 of that filing notes:

During the course of the past weeks, Venture and AT&T Mobility have worked diligently to resolve the issues in this docket. However, the parties have been unable to reach an agreement.

See Venture’s Motion to Set Hearing Date filed November 5, 2021, ¶ 8.

4. Given the parties’ impasse, Venture’s filing served as notice to AT&T Mobility (“AT&T”) that Venture believed the parties too far apart to productively continue settlement discussions and that any pending offers of settlement were effectively rejected.
5. Also included within the motion for a hearing date was a request that: “witnesses of the parties be permitted to testify via electronic means.” *See* Venture’s Motion to Set Hearing Date filed November 5, 2021, ¶ 10.
6. The Motion was heard by the Commission on November 23, 2021. As reflected in the recording, Mr. Van Camp agreed settlement discussions had broken down. He stated, “As we engaged in business to business discussions and realized we weren’t getting to a point of resolution that we needed to proceed--and with the upcoming legislative session we

thought, how can we get a hearing date crammed in now. Right? So, we get limited dates.”¹

7. The Commission first granted the motion for the December 7, 2021, hearing date but then denied the request to allow the parties to testify via electronic means. In voting against the request to allow electronic testimony, Chairman Nelson stated, in part:

It is difficult, we want to be accommodating but I am going to oppose it for I guess maybe three reasons. One, this is a complicated matter. I have read through the documents from both sides a number of times and it is getting clearer in my mind but I’m a long way from getting where I need to be and my hope is that these witnesses will get me there. And I think it is absolutely important that we be in the same room eyeball to eyeball to understand exactly where they’re coming from for each side because I want to get this right, we want to get this right. I am taking this very very seriously. And obviously, you folks have wrestled with this for a long time and you are too. . . . And the third is, we just don’t know about the technology. . . . For all those reasons, I would much prefer to have the folks in the room.²

8. As the Commission meeting continued and it became clear all Commissioners would not be able to attend the hearing in person on December 7, 2021, I withdrew my motion and agreed we would work with Staff to find another date for hearing. The motion for hearing was then reconsidered and the Commission denied the motion to set a hearing date of December 7, 2021.
9. Although Venture was prepared to proceed with the hearing in December 2021, as stated, conflicts understandably prevented the matter from being heard in December 2021.
10. On January 18, 2022, I provided Mr. Van Camp with the attached letter from Venture to Cindi Dissett. That correspondence is attached hereto as Attachment A.
11. As Mr. Van Camp had forecasted, the 2022 Legislative Session prohibited counsel from formally corresponding on this matter, but Mr. Van Camp and I were in frequent contact within the Capitol Building and I do recall we discussed the matter as our schedules allowed. Mr. Van Camp confirmed this in an email message to me dated July 6, 2022, wherein he references our conversations during session.
12. Staff also followed up with counsel for the parties and on February 7, 2022, Mr. Van Camp advised staff that “settlement offers” were still being discussed.
13. In March and April 2022, Mr. Van Camp and I corresponded regarding network testing proposed by AT&T, which required coordination between Venture and AT&T. Via the

¹ Recording of November 23, 2021, PUC Meeting beginning at approximately 14:10.

² Recording of November 23, 2021, PUC Meeting beginning at approximately 17:28.

discussions, Venture was informed that: “The purpose of the network testing is to confirm the current routing scheme for ported verses non-porting subscribers.”

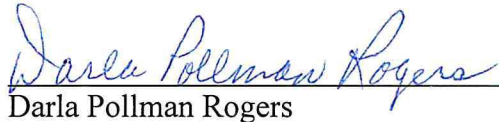
14. In April 2022, Venture engaged in considerable study related to AT&T’s proposal but ultimately declined to participate in testing of a routing “scheme” that potentially utilized LNP trunks for non-porting numbers.
15. In May 2022, Mr. Van Camp advised that AT&T had concluded testing and that AT&T intended “to proceed with diverting traffic, one trunk per week, and if we can confirm no issues we will have the trunk groups removed.” Mr. Van Camp made no mention of the ICA between his client and Venture, but he invited input from Venture.
16. I responded on behalf of Venture that we believed diversion of the traffic as AT&T intended “will eliminate toll-free calling for Venture’s customers to AT&T customers,” contrary to AT&T’s stated goals. I reminded Mr. Van Camp that we still needed to resolve the outstanding unpaid balances, and noted that “our clients have been unable to reach resolution to date.” I suggested mediation, accepting Staff’s offer to assist or resetting the case for hearing.
17. In June 2022, Venture received three disconnect ASRs from AT&T.³ Following receipt of the disconnect requests, Venture engaged in internal discussions on what to do with calls from Venture customers to AT&T numbers, if the local trunks and associated translations in Venture’s switch were disconnected. Options were to do nothing, in which case the calls would not be completed, or route calls over toll trunks, in which case calls would be long distance calls. Venture chose option two to ensure calls would be completed.
18. In late June 2022, I advised Mr. Van Camp and Staff that Venture anticipated complaints from dissatisfied customers who would now be charged toll charges for calls that were previously local calls. Mr. Van Camp responded that his client did not anticipate any changes in dialing patterns, and Staff questioned how the issues at the hearing may change as a result of AT&T’s actions of disconnecting all trunks, including the local translations into Venture’s switch.
19. In July 2022, the parties (sometimes including Staff) were engaged in a flurry of communication and discussion regarding AT&T’s proposed disconnect ASRs that Venture was concerned would result in toll calls when Venture customers placed otherwise local calls to AT&T’s customers. I asked Mr. Van Camp for a two-week delay to implement the disconnect ASRs, to attempt to reach a better resolution and to enable Venture to be prepared to handle customer complaints resulting from a change in local dialing patterns, to which AT&T ultimately agreed. Within that two-week timeframe, Mr. Van Camp indicated that they had tested multiple scenarios and: “The 3 Venture trunk groups have no traffic on them now, at this point you are only disconnecting unused trunks.”

³ All three disconnect ASRs failed to provide adequate information/direction with regard to the local translations in Venture’s switch. AT&T failed to adequately respond to Venture’s requests for clarification.


20. In late July 2022, following face-to-face meetings with Staff, I advised Mr. Van Camp and Staff that despite two additional weeks to try to reach a meaningful resolution, our clients were “at an impasse with regard to their positions on the technical and legal ramifications of AT&T’s cessation of local interconnection with Venture, and on the resulting affect such disconnection will have on customers.” I then advised of the actions Venture would be taking (working the disconnect ASRs and continued customer outreach and planning) and offered to assist Staff in development of a message to give to dissatisfied customers who called the PUC to complain of loss of local calling to AT&T customers. Mr. Van Camp responded that he had advised his client of Venture’s concerns and position and they looked forward to a hearing or resuming settlement discussions. Staff’s response was for Venture to move forward with amendment of its Complaint and proposal of a new procedural schedule.
21. In August 2022 I received messages from Staff regarding consumer complaints pertinent to the issues pending in this docket. I asked Staff to inform Mr. Van Camp of the customer complaints. Customer complaints to Venture continued into September 2022.
22. The developments over the summer of 2022, which distracted from the ability to move forward on the initial complaint, necessitated the preparation of the amended complaint which Venture is currenting asking the Commission to adopt. The original complaint and the proposed amended complaint all derive from the contractual agreement between the parties—the ICA.
23. To the extent there have been delays in this docket, they have been due to the complexity of the issues and the changing fact sets caused by the conduct of AT&T. The numerous and ongoing contacts between the parties only some of which are discussed above—there are many more—over the course of this docket by way of calls, emails, and in person conversations disprove the allegation that Venture has failed to prosecute the initial action.

[Signature on following page.]

Dated this 15th day of December, 2022.


Darla Pollman Rogers

Subscribed and sworn to before me this 15th day of December, 2022.


Notary Public Robert C. Riter
My commission expires: OCT 23, 2027

