

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

IN THE MATTER OF THE COMPLAINT OF)
VENTURE COMMUNICATIONS COOPERATIVE)
AGAINST NEW CINGULAR WIRELESS PCS,)
LLC DBA AT&T MOBILITY)
)

ORDER DENYING MOTION
FOR PARTIAL SUMMARY
JUDGMENT

CT20-001

On May 13, 2020, Venture Communications Cooperative (Venture) filed with the South Dakota Public Utilities Commission (Commission) a Complaint against New Cingular Wireless PCS, LLC dba AT&T Mobility (Mobility) for failure to pay for local interconnection facilities ordered by Mobility in Access Service Requests at the rates set forth in Venture's price list.

On May 14, 2020, the Commission electronically transmitted notice of the Complaint to interested individuals and entities on the Commission's PUC Weekly Filings electronic listserv. On May 14, 2020, the Commission served the Complaint on Mobility and established an answer deadline of June 2, 2020. On May 28, 2020, Venture, Mobility, and Commission staff (Parties) filed a Stipulation and Request for Waiver of ARSD 20:10:01 :09 requesting the answer deadline be extended to June 16, 2020, to allow the Parties additional time to negotiate. On June 11, 2020, the Commission issued an Order Granting Request for Waiver of ARSD 20:10:01 :19; Order Establishing Answer Deadline. On June 16, 2020, Mobility filed an Answer and Counterclaim. On July 2, 2020, Venture filed a Reply to Counterclaim. On July 31, 2020, the Parties filed a Stipulation and Motion for Adoption of Procedural Schedule. On August 7, 2020, the Commission issued an Order Granting Motion for Adoption of Procedural Schedule; Order Requiring Prefiled Testimony. On March 15, 2021, the Parties filed a Stipulation and Motion for Adoption of Revised Procedural Schedule. On March 18, 2021, the Commission issued an Order Granting Motion for Adoption of Revised Procedural Schedule; Order Adopting Revised Procedural Schedule. On May 19, 2021, Mobility filed a Motion for Partial Summary Judgment. On June 21, 2021, Venture filed its Opposition to the Motion for Partial Summary Judgment. On June 21, 2021, the Parties agreed to reschedule the July 6, 2021, dispositive motions' hearing to July 13, 2021. On July 2, 2021, the Commission issued an Order for and Notice of Hearing for Motion for Partial Summary Judgment.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, and 49-31.

On July 13, 2021, at its duly noticed hearing, the Commission considered the Motion for Partial Summary Judgment. After consideration of the arguments of the parties and a review of the documents filed in this proceeding, the Commission voted unanimously to deny the Motion for Partial Summary Judgment. The Commission finds that Mobility has failed to demonstrate the absence of any genuine issue of material fact. It is therefore

ORDERED, that the Motion for Partial Summary Judgment is hereby denied.

Dated at Pierre, South Dakota, this 14th day of July 2021.

CERTIFICATE OF SERVICE
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.
By: <u>Karen E. Cremer</u>
Date: <u>07/14/21</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Chris Nelson
CHRIS NELSON, Chairman

Kristie Fiegen
KRISTIE FIEGEN, Commissioner

Gary Hanson
GARY HANSON, Commissioner