
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION OF)
VENTURE COMMUNICATIONS COOPER-)
ERATIVE FOR SUSPENSION OR MODI-) DOCKET NO. TC06-181
FICATION OF LOCAL DIALING PARITY)
RECIPROCAL COMPENSATION OBLI-)
GATIONS)

VENTURE COMMUNICATION'S RESPONSE TO MOTION
TO COMPEL

Venture Communications ("Venture") hereby responds to Alltel Communications, Inc.'s ("Alltel") Motion to Compel as follows:

DISCOVERY AT ISSUE

Interrogatory No. 2: Provide the information requested on the form attached as Discovery Template 1 (Network Data), for each end office exchange in which Venture is certificated to provide telecommunications service. Provide your response in electronic form.

Venture's Response: Venture initially objected to the information requested in several of the columns of the Template, on the grounds of relevancy and the information sought was not reasonably calculated to lead to the discovery of admissible evidence. In its Motion to Compel, Alltel argued that the "Lines in Use" information requested was directly relevant to Venture's claims of increased levels of traffic and associated costs of the increase in traffic.

Venture disagrees with Alltel's claim of relevancy. "Lines in use" is the number of telephone lines Venture customers have. Venture's current lines in use have no bearing on the increased number of local calls and costs associated therewith that would come about if Venture's Suspension Petition is not granted.

Without waiving said objection, Venture submits herewith a revised Discovery Template 1 that includes Lines in Use.

Interrogatory No. 3: Provide a network diagram for your network and identify Venture switches, transmission add/drop nodes and/or multiplexors, interoffice routes, intercompany transmission facilities, and call record data collection points. Identify capacity and in-service plant associated with each switch, node, route, and/or facility.

Venture Response: Venture objected to this Interrogatory based upon relevancy. The Interrogatory seeks information not reasonably calculated to lead to the discovery of admissible evidence, the information requested seeks proprietary and highly confidential information, and the request is unduly burdensome. Alltel argues that the information is relevant to analyze Venture's alleged increased costs of transport. Alltel's argument, however, is flawed because it is based upon an incorrect premise. Venture has not alleged that it needs to merely increase its capacity. If its Petition is not granted, Venture would need to install new facilities. None of the requested information in Interrogatory No. 3 will assist Alltel in analyzing Venture's need to install new facilities. Therefore, Venture continues to object to this Interrogatory.

Interrogatory No. 4: Identify any overlap routes and interface points between Venture's network and the SDN network. To the extent that Venture utilizes any of the SDN network or SDN utilizes any of the Venture network, identify the SDN network SONET ring(s) associated with such usage and the purpose of any such utilization.

Venture Response: Venture continues to object that the requested information is not relevant and is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objections, Venture will supplement its previous response with a diagram. The diagram needs to be converted to another format and will be provided as soon as possible.

Interrogatory No. 6: Identify all communications you sent to any consultants or possible experts regarding any reports or studies that you contend support your requests for suspension or provided information that was used in coming up with the exhibits and studies attached to your Petition for Suspension.

Venture Response: Venture has supplemented its previous responses and provided the requested information.

Interrogatory No. 10: Identify the volume of access minutes, messages, and revenue by month by jurisdiction for each Venture exchange for the period January 2002 through December 2006.

Venture Response: Alltel alleges that the volume of access minutes, messages and revenue by month by jurisdiction for each Venture exchange for the period January 2002 through December 2006 is "relevant and necessary to analyze and rebut the Venture allegations and claims that without the suspensions it will incur decreased levels of traffic by Venture and the associated increased costs of and corresponding loss of revenue."

Access minutes and corresponding access revenues are either originating access minutes or terminating access minutes. Venture assesses originating access charges on interexchange carriers for toll calls originated by a Venture end user customer and terminating outside of that customer's local calling area. Venture assesses terminating access charges on interexchange carriers for a long distance call terminating to a Venture

end user customer and originated by an end user customer outside of the Venture end user's local calling area. Alltel's Motion only purports to support the need for access minute data in connection with Venture's claims concerning "decreased levels of traffic by Venture." With respect to access charges, Venture's Petition only alleges a decrease in originating access minutes if the Suspension Petition is not granted. Accordingly, Alltel's request for terminating access minute data is not supported by Alltel's motion and it is not relevant and is not reasonably calculated to lead to the discovery of admissible evidence.

With respect to Alltel's request for originating access minute data, Venture, (and, in fact, all carriers) assess access charges on a per minute basis and not on a per message basis. Accordingly, Venture has no need to record access on a per message basis and it does not have access reports by message. Because Venture's access reports do not include access messages, it would be extremely burdensome to identify this information, if it could be done at all.

With respect to Alltel's request for originating access revenues by exchange, Venture does not develop or maintain revenue reports by exchange. To develop this information, Venture would have to print every bill, separate all bills by exchange and manually tally the billed revenues associated with each exchange. This process would be extremely burdensome.

With respect to the remainder of Alltel's request, Venture is providing originating access minutes by month, jurisdiction and exchange and access revenue by month and jurisdiction for the years 2004, 2005 and 2006. Venture is unable to separate access revenues by originating and terminating access, so total access revenues are included.

Venture objects to the provision of data for 2002 and 2003. Alltel alleges that it needs data for multiple years to provide a baseline and historical trend. The provision of data for three years meets Alltel's purported need. On the other hand, due to the age of 2002 and 2003 data, it is not easily available to Venture and, therefore, a requirement to provide this data would be burdensome. Venture also notes that the provision of three years of data meets the industry standard and the South Dakota Commission's standard in connection with historical trends.

Interrogatory No. 11: Identify the volume of toll minutes, messages, revenue, and lines served by month by jurisdiction for each Venture exchange for Venture's retail long distance for the period January 2002 through December 2006.

Venture's Response: Alltel alleges that the volume of toll minutes, messages, revenue and lines served by month by jurisdiction for each Venture exchange for Venture's retail long distance for the period January 2002 through December 2006 is "relevant and necessary to the claims of decreased levels of toll traffic by Venture and the corresponding loss of revenue."

The Petition for Suspension was filed by Venture as a local exchange carrier. Access services, which are the subject of Interrogatory No. 10, are provided by Venture as a local exchange carrier. Toll services, which are the subject of Interrogatory 11, are provided by Venture as a long distance carrier. Although Venture is one entity, its local exchange carrier operations and toll operations are subject to different regulations pursuant to federal and state law. Indeed, pursuant to Section 251(f) of the Communications Act, only Venture as a local exchange carrier is entitled to request a suspension or modification of Section 251(b) requirements. Moreover, pursuant to federal and state law, Venture's costs and revenues associated with its local exchange carrier business and toll business must be kept separate. Accordingly, Venture only requests a suspension of certain 251(b) requirements as they apply to Venture as a local exchange carrier and Venture's Suspension Petition shows the harm that will result to Venture as a local exchange carrier if its petition is not granted. All of the calculations concerning costs and revenues in Venture's suspension petition are related to Venture's local exchange service operations. Venture's toll minutes, messages, revenue and lines served are all factors related to Venture as a long distance provider and, therefore, are not relevant and not reasonably calculated to lead to the discovery of admissible evidence in connection with Venture's request for suspension of certain obligations as a local exchange carrier.

In addition, with respect to Alltel's request for toll data, Venture's toll reports do not include toll minutes or messages or toll revenues by exchange. Venture also does not maintain information on the number of toll lines by month. To develop this information, Venture would have to print every bill, separate all bills by exchange and manually tally the number of toll lines, toll messages, toll minutes and the billed toll revenues associated with each exchange. This process would be extremely burdensome.

Venture also objects to the provision of data for 2002 and 2003. Alltel alleges that it needs data for multiple years to provide a baseline and historical trend. The provision of data for three years meets Alltel's purported need. On the other hand, due to the age of 2002 and 2003 data, it is not easily available to Venture and, therefore, a requirement to provide this data would be burdensome. Venture also notes that the provision of three years of data meets the industry standard and the South Dakota Commission's standard in connection with historical trends.

Interrogatory No. 15: Identify any and all Affiliates of Venture, and explain the terms and conditions on which you exchange traffic with each such Affiliate and describe the ownership structure of Venture and each of its Affiliates.

Venture's Response: Venture objected to this Interrogatory not only on the ground of relevancy, but also on the ground of Alltel's use of a definition for Affiliate that is inconsistent with the federal act. Alltel appears to argue relevance based upon Venture's overall allocation of financial obligations among itself and its affiliates, and its corresponding ability to absorb or spread increased costs to affiliates.

Venture continues to object to this Interrogatory. Venture is a regulated local exchange carrier and has filed this Petition as such. Under current law, Venture's costs and

expenses as a regulated local exchange carrier are required to be kept separate (See ARSD Ch. 20:10:28). Therefore, any costs and revenues of other entities are not relevant to this Petition, as Venture has filed this Petition as a regulated local exchange carrier.

Interrogatory No. 31: Admit that Venture currently provides basic local exchange services at less than the costs of those services as reflected on the books of Venture. If you deny this request in whole or in part, explain in detail the basis of that denial.

Venture's Response: Venture objected to this request for admission on the basis that it is not relevant and it is not reasonably calculated to lead to the discovery of admissible evidence. Without waiving said objection, Venture denied the statement.

Venture continues to deny the statement. Venture is required by federal and state law to prepare cost studies which assign costs to the interstate and intrastate jurisdictions based on specific purpose or usage. After the assignments have been made to the interstate and intrastate jurisdictions, the remaining costs are assigned to the local jurisdiction. The costs assigned to the local jurisdiction must be recovered through local service rates to the Venture end users or reciprocal compensation rates billed to other carriers.

Request for Production 24: Provide any RUS filings made by or on behalf of Venture on or subsequent to January 1, 2002.

Venture's Response: Venture objected to this Request for Production on the basis of relevancy and that it seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. In addition, this Request for Production is unduly burdensome. Alltel appears to argue that because Venture filed the current petition, Alltel is entitled to engage in a fishing expedition of all of Venture's past RUS filings. Venture continues to object to this Interrogatory.

Venture files voluminous financial and non-financial information with its lender, RUS. Alltel has failed to specify what information it seeks, other than information related to Venture's current economic and financial condition. Alltel's request, however, is not specific as to that type of information. In addition, Venture disagrees with Alltel's contention that it must analyze Venture's current economic condition to determine if Venture and its customers will be adversely affected. That is not the standard for granting a Petition for Suspension. The criteria for granting a suspension is not whether Venture can afford increased costs associated with Alltel's requests for local dialing parity and reciprocal compensation. Venture's burden is to establish that there will be increased costs, and to quantify those increased costs. The Commission then must determine whether these additional costs will have an adverse affect on Venture's customers, who will be paying the increased costs. Alltel's overly broad request for all RUS filings is not relevant to the Petition, nor will it lead to discovery of admissible evidence.

Under South Dakota law, while discovery rules are to be liberally construed, fishing expeditions are not allowed. A "mere suspicion" that information requested pursuant to discovery "may possibly contain relevant evidence" is not sufficient to meet the statu-

tory standard of information that is “reasonably calculated to lead to the discovery of admissible evidence.” Weisbeck vs. Hess, 524 NW 2d 363 (S.D. 1994); SDCL 15-6-26(b)(1).

Request for Production 25: Provide any IRS filings related to exemption under IRC 501(c)(12) made by or on behalf of Venture on or subsequent to January 1, 2002.

Venture’s Response: See response to Request for Production 24.

Request for Production 26: Provide any FCC Form 499 filings made by or on behalf of Venture on or subsequent to January 1, 2002.

Venture’s Response: Sections 54.706, 54.711, and 54.713 of the Federal Communications Commission's (FCC) rules require all telecommunications carriers providing interstate telecommunications services, and certain other providers of interstate telecommunications, such as providers of interstate telecommunications for a fee on a non-common carrier basis, payphone providers that are aggregators, and interconnected Voice-over-Internet Protocol (VoIP) providers to contribute to universal service and file a Telecommunications Reporting Worksheet (Form 499).

The data in this form is used to calculate contributions to the universal service support mechanisms, the telecommunications relay services support mechanism, the cost recovery mechanism for numbering administration, and the cost recovery mechanism for shared costs of long-term number portability.

The form includes gross revenues from all sources, including non-regulated and non-telecommunications services. Gross revenues consist of total revenues billed to customers during the filing period with no allowances for uncollectibles, settlements, or out-of-period adjustments. Total revenues consist of local, toll, access, and other non-regulated and non-telecommunications services.

Venture continues to object to the relevancy of the information requested. As noted in previous responses, the only revenues relevant to the Petition are access revenues, and these have been provided in Response to Interrogatory No. 10.

Request for Production 32: Provide all part 36/Part 69 cost studies submitted to SD LECA by or on behalf of Venture since January 1, 2002, including all supporting work papers and inputs.

Venture’s Response: Venture objected to this Request for Production on the basis of confidentiality and relevancy. Alltel argues that the information is necessary to provide baseline/historical revenue and cost information. Venture continues its objection to the relevancy of this request. Without waiving said objection, Venture’s part 36/Part 69 cost study filed in 2004 is available on line on the Public Utilities Commission website (www.state.sd.us/puc), Docket TC04-111.

Venture objects to the provision of data for 2002 and 2003. Due to the age of 2002 and 2003 data, it is not easily available to Venture and therefore, a requirement to provide this data would be burdensome.

Venture did not file a cost study in 2005 or 2006, so data for those years is not available. Under Commission rules, companies are only required to file cost studies every three years.

Respectfully submitted this 2nd day of May, 2007.

Riter, Rogers, Wattier & Brown, L. L. P.
Attorneys at Law

By : *Darla Pollman Rogers*

Darla Pollman Rogers
319 S. Coteau
P. O. Box 280
Pierre, SD 57501
Tel: 605-224-5825
Fax. 605-224-7102

**Blooston, Mordkofsky, Dickens,
Duffy & Pendergast**

Ben H. Dickens, Jr.
Mary J. Sisak
2120 L St., NW Suite 300
Washington, D.C. 20037
Tel. 202-659-0830
Fax. 202-828-5568

Attorneys for Venture Communications
Cooperative, Inc.

Certificate of Service

The undersigned, attorney for Venture Communications, Inc., hereby certifies that a true and correct copy of the foregoing Venture's Response to Motion to Compel was sent electronically on this 2nd day of May, 2007, upon:

Talbot J. Wiczorek
Gunderson, Palmer, Goodsell
& Nelson
P. O. Box 8045
Rapid City, SD 57709
E-mail: tjw@gpgnlaw.com

Richard Coit
SDTA
320 East Capitol Avenue
Pierre, SD 57501
E-mail: richcoit@sdtasonline.com

Kara Van Bockern, Staff Attorney
Public Utilities Commission
State of South Dakota
500 East Capitol Avenue
Pierre, SD 57501
E-mail: kara.vanbockern@state.sd.us

Ben H. Dickens, Jr.
Mary J. Sisak
Blooston, Mordkofsky,
Dickens, Duffy & Pendergast
2120 L Street, NW, Suite 300
Washington, DC 20037
E-mail: bhd@bloostonlaw.com
E-mail: mjs@bloostonlaw.com

Harlan Best, Staff Analyst
Public Utilities Commission
500 East Capitol Avenue
Pierre, SD 57501
E-mail: harlan.best@state.sd.us

Rolayne Ailts Wiest
Commission Counsel
Public Utilities Commission
500 E. Capitol Avenue
Pierre, SD 57501
E-mail: rolayne.wiest@state.sd.us

Ms. Patricia Van Gerpen
Executive Director
South Dakota Public Utilities Commission
500 E. Capitol
Pierre, SD 57501
E-mail: patty.vangerpen@state.sd.us

Mr. Stephen B. Rowell
Alltel
P. O. Box 2177
Little Rock, AR 72202
E-mail: stephen.b.rowell@alltel.com

Sean R. Simpson
Alltel Communications
2000 Technology Drive
Mankato, MN 56001
E-mail: sean.simpson@alltel.com


Darla Pollman Rogers