



Gary Hanson, Chair
Chris Nelson, Vice Chair
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SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

500 East Capitol Avenue
Pierre, South Dakota 57501-5070
www.puc.sd.gov

Capitol Office
(605) 773-3201
1-866-757-6031 fax

Grain Warehouse
(605) 773-5280
(605) 773-3225 fax

Consumer Hotline
1-800-332-1782

November 15, 2011

Patricia Van Gerpen

PUC Executive Director

500 E. Capitol Ave

Pierre, SD 57501

RE: TC11-071 and 072

Dear Ms. Van Gerpen;

On June 13, 2011 New Cingular Wireless PCS, LLC, a subsidiary of AT&T Mobility LLC, (herein AT&T) applied for Designation as an Eligible Telecommunications Carrier (herein ETC) in both rural and non-rural study areas. James Valley Wireless LLC was granted intervention in both the rural and non-rural filing and SDTA was granted intervention in the rural filing. By the end of August, the parties agreed to schedule a hearing for January 4 and 5, 2012.

For various reasons the parties failed to establish a more robust procedural schedule. From Commission Staff's (herein Staff) perspective, however, the January hearing dates are more than tentative and were always the benchmark from which all scheduling conversations began. AT&T wishes to proceed with the agreement and have its case heard in January. Interveners, however, wish to delay the hearing until they have an opportunity to fully vet the effects of the October 27, 2011 FCC Order. The FCC order has yet to be released, and the timeline for release is uncertain. Despite attempts at a compromise, the parties are unable to resolve this difference. Staff now seeks Commission guidance regarding the proper procedure that best protects all party interests and rights.

Staff acknowledges the FCC decision related to federal universal service funding and intercarrier compensation potentially complicates the Commission's decision-making process. With that said, Staff believes AT&T has a right to a timely hearing. AT&T filed its applications within the same timeframe as all other currently designated ETC annual filings. The PUC did not delay those annual filings despite the chance an anticipated FCC decision has significant impact on future obligations. It is uncertain when the pending FCC Order will be released, let alone take effect. The implementation timeframe and delays due to court challenges may push that

impact even further into the future. Staff feels it is unfair to AT&T to delay its "day in court." The filing was made under the current law. Staff believes the application can be evaluated under the current law. In addition, AT&T has stated that they assume the pending application is relevant only in regard to universal service support received under the current CETC high cost support mechanism.

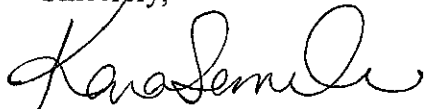
Staff understands its position is based on several assumptions, including that the FCC Order will not change this Commission's obligations as they pertain to current CETC high-cost support. Staff understands, however, if our assumptions prove to be wrong upon release of the FCC Order, hearing dates may need to be pushed back. Different or additional application information may be necessary if the FCC Orders this Commission's obligations or analysis change as it pertains to this docket. In that case, supplemental testimony may be necessary giving us no choice but to delay the hearing.

Based again on the above assumptions and qualifications, Staff supports the following schedule:

- AT&T shall serve full, complete and responsive answers on interveners by November 28, 2011.
- Intervenors shall file testimony by close of business on December 9, 2011.
- AT&T shall file rebuttal testimony by close of business on December 23, 2011.
- The hearing remains scheduled for January 4 and 5, 2012.

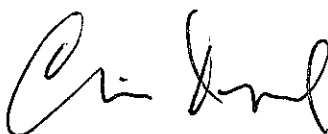
Staff appreciates the arguments made by both parties, but does not have the authority to resolve this dispute. In summary, Staff's concern for AT&T's due process rights outweighs the concern regarding the impact of the FCC Order. Due to AT&T's desire to proceed to a January 4 and 5 hearing, Staff is willing to operate under the assumption that the pending FCC Order will not immediately affect the Commission's obligations as they pertain to the pending AT&T ETC applications. As such, Staff asks the Commission to generally determine whether the rights of parties are best protected by proceeding to hearing in January 2012, as requested by AT&T, or whether, as intervenors argue, it is appropriate to delay the hearing pending a full understanding of the unreleased FCC Order.

Sincerely,



Kara Semmler

Staff Attorney



Chris Daugaard

Staff Analyst