

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

IN THE MATTER OF THE COMPLAINT FILED)	ORDER DENYING MOTION
BY ELDON LINDQUIST ON BEHALF OF)	TO DISMISS AND ORDER
PIERRE RADIO PAGING & TELEPHONE,)	GRANTING IN PART AND
PIERRE, SOUTH DAKOTA, AGAINST)	DENYING IN PART MOTION
VENTURE COMMUNICATIONS)	TO STRIKE
COOPERATIVE, INC. F/K/A SULLY BUTTES)	
TELEPHONE COOPERATIVE, INC.)	CT05-004
REGARDING A BILLING DISPUTE)	

On April 14, 2005, the Public Utilities Commission (Commission) received a complaint filed by Eldon Lindquist on behalf of Pierre Radio Paging & Telephone (Complainant) against Venture Communications Cooperative, Inc. f/k/a Sully Buttes Telephone Cooperative, Inc. regarding a billing dispute.

On April 14, 2005, the complaint was faxed to Venture. Pursuant to ARSD 20:10:01:09, Venture was notified that it must satisfy the complaint or file an answer in writing with the Commission by May 4, 2005. On May 4, 2005, the Commission received a Motion to Dismiss or Alternatively Motion to Strike from Venture.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13, including 49-13-1 through 49-13-14, inclusive, and SDCL Chapter 49-31, including 49-31-3, 49-31-7, 49-31-7.1, 49-31-7.2, 49-31-7.3, 49-31-7.4, 49-31-10, 49-31-11, 49-31-38, 49-31-38.1, 49-31-38.2, 49-31-38.3, 49-31-89 through 49-31-97, inclusive, and ARSD Chapters 20:10:01 and 20:10:34.

On August 9, 2005, at a regularly scheduled meeting, the Commission considered the Motion to Dismiss and Motion to Strike. The Commission voted unanimously to deny the Motion to Dismiss, finding that no preemption decision has been disclosed to the Commission and that absent a finding of preemption, the Commission may not conclude that it lacks jurisdiction to adjudicate an intercarrier compensation dispute pursuant to SDCL chapter 49-13 and § 49-31-81 and 47 U.S.C. § 252. The Commission also voted to grant in part and deny in part the Motion to Strike. The Commission voted to grant the Motion to Strike with respect to the following portions of the Complaint and attachments on the grounds that they invoke settlement communications:

- In "Sully Buttes Exhibit 1," strike the last paragraph of the body of the attachment beginning with the words "We received a letter from Darla Rogers" and request for relief "1."
- In the attached March 2, 2004 letter from Benjamin J. Aron to Darla Pollman Rogers, strike the last paragraph.
- Strike the letter dated December 22, 2004 from Darla Pollman Rogers to Eldon Lindquist in its entirety.

Except for the above referenced items, the Commission voted to deny the Motion to Strike.

It is therefore

ORDERED, that the Motion to Dismiss is hereby denied. It is further

ORDERED, that the Motion to Strike is granted in part and denied in part as set forth above.

Dated at Pierre, South Dakota, this 18th day of August, 2005.

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, by facsimile or by first class mail, in properly addressed envelopes, with charges prepaid thereon.

By: Delaine Kolbo

Date: 8/18/05

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Gary Hanson
GARY HANSON, Chairman

Robert K. Sahr
ROBERT K. SAHR, Commissioner

Dustin M. Johnson
DUSTIN M. JOHNSON, Commissioner
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