



**BUREAU OF ADMINISTRATION  
OFFICE OF HEARING EXAMINERS**

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RE: Venture Communications

Counsel:

As you know, a conference call was held in this matter on August 14, 2007 regarding several housekeeping matters that I wanted to take care of since I have recently been appointed to this file. In addition, argument was presented by counsel for Alltel, RCC and Venture in response to Mr. Simpson's e-mail of August 13, 2007. Additionally, I had a second conference call with available counsel from Alltel and Venture on August 15, 2007 to provide clarification. I have reviewed my notes, the record in this matter, the tape from Ms. Johnson's May 17, 2007 motion hearing and Mr. Wiczorek's e-mail of August 14, 2007.

Regarding surrebuttal testimony it seems that the most pertinent evidence of the intention of the parties can be derived from the e-mail string between Mr. Simpson, Ms. Rogers and Ms. Johnson dated July 6 and 7, 2007. In Ms. Rogers's response to Mr. Simpson's July 6, 2007 message she writes as follows:

I have two additions to your extension schedule:

1. We did not discuss surebuttal [sic] testimony on the telephone this morning. Surrebuttal testimony should be limited to any cost study testimony we include in our rebuttal testimony resulting from the data you provide to us by July 13. We should have a chance to respond to your surebuttal testimony by August 24<sup>th</sup>, limited solely to your surebuttal. We should have the last opportunity to file testimony, since we are the moving party.

2. In our telephone conversation, you agreed that if Venture provides 499s for the last three years, and an explanation of miscellaneous revenue, Venture has complied with all outstanding discovery requests. Venture's final responses should be due the same date as Alltel's data, which if [sic] Friday, July 13<sup>th</sup>.

With these additions, we are in agreement with continuance of the hearing date. We would suggest starting the hearing at 1:00 on Monday, August 27<sup>th</sup> and concluding on August 29<sup>th</sup>.

Ms. Johnson requested a copy of our email correspondence, so as soon as you have made my requested revisions, we need to send a copy to her.

Darla

Mr. Simpson replied via e-mail "I agree with your additions". The e-mail string was then forwarded to Hearing Examiner Johnson.

Mr. Simpson argued that emails aren't always clear and the above isn't really what he meant. However, during the conference calls he has appeared assertive, thorough, informed and articulate. It seems difficult to accept that his reply to Ms. Rogers's July 6, 2007 e-mail was just a cavalier response and not really what he had intended. The proposition that Venture did not include any cost study testimony resulting from discovery materials submitted by Alltel went uncontested. Therefore, it is clear from the e-mail correspondence of July 6, 2007 that surrebuttal prefiled testimony will end here.

Regarding discovery, apparently, the parties agreed to their own pared down version of Hearing Examiner Johnson's discovery order (refer to discovery order set forth in Johnson's e-mail dated Thursday May 24, 2007). I have not been provided, nor do I believe there exists, any written agreement as to what the parties subsequent agreement was. Venture indicates they complied in that they provided Alltel the last three years 499s and explanation of miscellaneous revenues. The best evidence before me of the parties' intentions is the May 6 and 7 e-mail wherein Mr. Simpson agrees with Ms. Rogers additions, numbers 1 and 2. Number 2 clearly sets forth that 499s and

explanations of miscellaneous revenue fulfill any outstanding discovery requests. That statement was agreed to by Mr. Simpson. Venture has fulfilled their discovery obligation.

Sincerely,

  
Hillary J. Brady  
Office of Hearing Examiners