

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

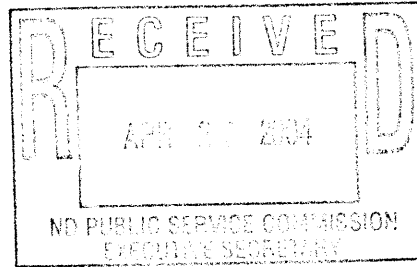
BEK Communications Cooperative, Consolidated Telcom, Dakota Central Telecommunications Cooperative, Dickey Rural Telephone Cooperative, Griggs County Telephone Company, Inter-Community Telephone Company, LLC, Missouri Valley Communications, Inc., Moore and Liberty Telephone Company, Nemont Telephone Cooperative, Inc., North Dakota Telephone Company, Northwest Communications Cooperative, Polar Communications Mutual Aid Corporation, and Reservation Telephone Cooperative,

Complainants,

vs.

SmartNET, Inc., d/b/a CallSmart,

Respondent.



**REPLY TO MOTION FOR
PRODUCTION AND
RESPONDENT'S OWN MOTION
FOR PRODUCTION AND BRIEF IN
SUPPORT OF BOTH**

Case No. PU-2967-03-666

This reply is to the Complainants Motion for Production of Documents and it is also the Respondent's Own Motion for Production of Documents and is being submitted to the Office of Administrative Hearings for purposes of the procedural matters in this case.

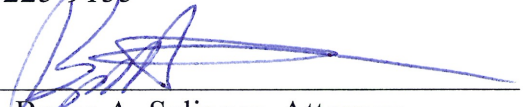
Respondent requests the following relief:

1. A protective order from the Administrative Law Judge that the contracts Complainants are seeking to obtain are protected by the non-disclosure agreements the Respondents were required to sign and that the request is unduly burdensome and not relevant to the issue at hand.

2. An Order that the Complainants provide Respondent with the answers to the Interrogatories which interrogatories are identical to the information sought by Complainants.
3. For a continuance of this entire proceeding until these exact issues are resolved by the Federal Communications Commission, the agency that actually has taxing authority.

Dated this 23rd day of April, 2004.

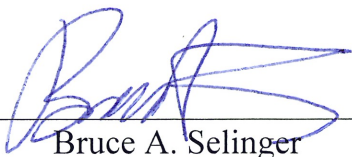
KUBIK, BOGNER, RIDL & SELINGER
Attorneys for Respondent
26 East Third Street
P. O. Box 1173
Dickinson, ND 58602-1173
(701) 225-9155

By: 
Bruce A. Selinger, Attorney
(ID# 04368)

CERTIFICATE OF SERVICE

I certify that I caused a true and correct copy of the foregoing BRIEF IN REPLY TO COMPLAINANT'S MOTION AND IN SUPPORT OF RESPONDENT'S MOTION FOR PRODUCTION AND SANCTIONS and REPLY TO MOTION FOR PRODUCTION AND RESPONDENT'S OWN MOTION FOR PRODUCTION AND BRIEF IN SUPPORT OF BOTH to be mailed, by first class mail with postage duly prepaid, on the 23rd day of April, 2004, to the following person:

Don Negaard
Attorney at Law
P.O. Box 1000
Minot, ND 58702


Bruce A. Selinger

BEFORE THE PUBLIC SERVICE COMMISSION OF NORTH DAKOTA

BEK Communications Cooperative,)
Consolidated Telcom, Dakota Central)
Telecommunications Cooperative, Dickey)
Rural Telephone Cooperative, Griggs)
County Telephone Company, Inter-Community)
Telephone Company, LLC, Missouri Valley)
Communications, Inc., Moore and Liberty)
Telephone Company, Nemont Telephone)
Cooperative, Inc., North Dakota Telephone)
Company, Northwest Communications)
Cooperative, Polar Communications Mutual)
Aid Corporation, and Reservation Telephone)
Cooperative,)
Complainants,)
vs.)
SmartNET, Inc., d/b/a CallSmart,)
Respondent.)

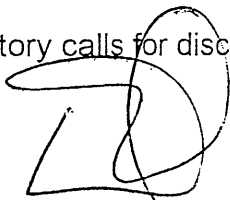
**COMPLAINANTS' RESPONSE
TO RESPONDENT'S
INTERROGATORIES AND FOR
PRODUCTION OF DOCUMENTS**

Case No. PU-2967-03-666

For their responses to Respondent's Interrogatories and for Production of Documents, Complainants provide the following. Complainants will supplement discovery as required by the North Dakota Rules of Civil Procedure.

INTERROGATORY NO. 1: List the full name, address and occupation of any person assisting in the preparation of the answers to these Interrogatories.

RESPONSE: To the extent this interrogatory calls for disclosure of attorney work product, it is objected to on that basis.



Don Negaard, ND Bar ID #03598

INTERROGATORY NO. 2: Please produce the following:

- a. All quarterly sales tax reports of each Complainant for the year 2003.
- b. A copy of all contracts, service agreements and bills for local telecommunications access facilities used to connect a local wire center to each of Complainants network.
- c. A copy of all contracts, service agreements and bills for telecommunications access and transport facilities purchased by each Complainant's network together.
- d. A copy of all contract, service agreements and bills for telecommunications facilities or services purchased from interexchange carrier companies.
- e. A copy of all contracts, service agreements and bills for all transport and access services purchased from another telecommunications provider and not already provided in the previous disclosures.
- f. A copy of all contracts, service agreements and bills for all internet service provider connections and transport purchased from an internet service provider.
- g. Provide a detailed schematic diagram of how each Complainant's network architecture is configured in North Dakota and how each of Complainant's network connects to the national and international networks. Please include all equipment locations, locations where each of Complainant's network connects to other telecommunications providers facilities, switch locations, router locations, access hubs, interexchange carrier points of interface, internet points of interface and all other significant network locations, components, transport facilities, operations points or carrier access points of presences.
- h. A detailed list of all routing and switching equipment owned and operated in each Complainant's network, including product manufacturer and part number.
- i. A copy of all agreements, contracts and bills for telecommunications switching and routing services provided by a third party.
- j. A complete description of all equipment and appliances required on the customer premise allowing a user to access each Complainant's network for voice communications services.

- k. A detailed description of the stems an end user takes to connect to each Complainant's network and complete a voice call from each wire center in which Complainant's [sic] has customers.
- l. A detailed explanation of how a voice call placed over each Complainant's network is completed, including a detailed discussion of facility type and ownership used as the call traverses the network.
- m. A description of the minimum internet service connection required at the customer premise to access each Complainant's network.
- n. A complete list of all information and content services offered to end users by each Complainant.
- o. A complete list of the routable IP addresses registered and available to each Complainant and its affiliates.
- p. A complete list of all domain names registered and available to each Complainant and its affiliates.
- q. A complete list and description of all content and information service types that originate, terminate, or transit over each Complainant's network.
- r. A breakdown of network utilization by relative use of each type of content or information service that originates, terminates or transits each Complainant's network.
- s. A copy of all contracts, service agreements and bills for network peering arrangements used to transit internet traffic from one provider to another.
- t. A complete list of all locations where each Complainant's services can be completed to the end user without mediation of a third party.
- u. All terminating and originating traffic records.
- v. Current subscriber/customer list showing wire center and address for each Complainant.
- w. Statements showing remittance to or for:
 - 1. Universal Service Funds;
 - 2. 911 or E911 taxes or funds;
 - 3. Gross receipts taxes;

4. Dickinson and any other city's sales taxes; and
5. Federal excise taxes.

RESPONSE: Interrogatory number 2 is objected to on the basis that it is unduly burdensome and expensive. The information sought is not relevant nor is it reasonably calculated to lead to the discovery of relevant information. The questions are asked for the purpose of vexation since it is the Respondent's conduct and operations which are in question, not the Complainants'. In addition, no time or place for the production of documents is specified as called for by the Rules of Civil Procedure.



Don Negaard, ND Bar ID #03598

INTERROGATORY NO. 3: Please identify each person whom Complainant expects to call as an expert witness at the hearing.

RESPONSE: Discovery is ongoing in this case and no decision has yet been made with regard to experts. The Complainants may call Dean Anagnost of Kadrmas, Lee & Jackson, Engineers, 3237 East Broadway, Bismarck, North Dakota 58501, telephone (701) 255-0076.

INTERROGATORY NO. 4: As to each such expert listed in answer to the preceding Interrogatory, state the following:

- a. The subject matter in which the expert is expected to testify.
- b. The substance of the facts and opinions to which the expert is expected to testify.
- c. Give a thorough and explicit summary of the grounds for each opinion of the expert.
- d. State the educational background of each expert listed above, give a brief summary of his professional experience, and enumerate the professional societies and organizations of which he is presently a member.