

Jeffcoat-Sacco, Illona

From: Bruce Selinger [BruceSelinger@goESP.com]
Sent: Monday, May 10, 2004 12:57 PM
To: Don Negaard; Fahn, Patrick J.
Cc: Illona A. Jeffcoat-Sacco; William Binek; Hon. Allen C. Hoberg
Subject: Re: Smart Net Complaint

As long as discovery works both ways and the information as to the differences in the systems is provided to both sides then we are on an even playing field. One more reason to delay this hearing because you can't and won't provide me with this information before this hearing.

I will be out of the office till Thursday.

----- Original Message -----

From: Don Negaard
To: Bruce Selinger ; Fahn, Patrick J.
Cc: Illona A. Jeffcoat-Sacco ; William Binek ; Hon. Allen C. Hoberg
Sent: Monday, May 10, 2004 11:03 AM
Subject: Re: Smart Net Complaint

This fortifies my reasons to Judge Hoberg that the discovery we have requested should be granted, so I am copying this to him as well. Up until now CallSmart seemed to be claiming it was a "phone to phone VOIP" like AT&T but now seems to be wanting to morph itself into something else. The factual information we requested from CallSmart is needed to prevent this type of situation from occurring.

----- Original Message -----

From: Bruce Selinger
To: Don Negaard ; Fahn, Patrick J.
Cc: Illona A. Jeffcoat-Sacco ; William Binek
Sent: Monday, May 10, 2004 11:20 AM
Subject: Re: Smart Net Complaint

The ruling of the FCC was a very narrow ruling as to the specifics to the AT&T petition. This narrow ruling does not address the issues of this case nor does it address the big issue of VOIP which will be considered by the FCC at a later date. Smartnet is not AT&T. Any ruling by this commission in favor of either party will be wrong until the FCC completes its whole hearing and makes the VOIP NPMR ruling. Time hurts neither party. The wrong decision does.

----- Original Message -----

From: Don Negaard
To: Fahn, Patrick J.
Cc: Illona A. Jeffcoat-Sacco ; William Binek ; Bruce Selinger
Sent: Monday, May 10, 2004 8:13 AM
Subject: Smart Net Complaint

I am writing concerning the PSC's agenda item concerning a request by SmartNET, Inc. d/b/a Call Smart that the hearing set for May 25, 2004 be delayed.

We oppose this motion. At the time SmartNET made this request for delay it did not reference the recent FCC decision in the petition by AT&T. A copy of that decision was attached to our response brief on discovery motions that are before the Office of Administrative Hearings. In deference to Smart NET we would assume they were not aware of the decision. SmartNET has asked this matter be deferred until the FCC issues its awaited decision. We submit that time is here now and this hearing should continue as scheduled.

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E-Mail response re Don Negaard's e-mail
 response
 by SmartNET, Inc. by

5/10/2004

05/10/2004

CC: Comm Legal PHD (3) AL J