

Scott, Sandi L.

From: Binek, William W.
Sent: Tuesday, July 25, 2006 9:15 AM
To: Bruce NDX; Bruce Selinger; Shaw Pittman; Don Negaard
Cc: -Grp-PSC Commissioners; -Grp-PSC Public Utilities; -Grp-PSC Legal
Subject: FW: SmartNet Hearing

From: Binek, William W.
Sent: Monday, July 24, 2006 5:00 PM
To: 'Bruce NDX'
Cc: Bruce Selinger; Shaw Pittman
Subject: RE: SmartNet Hearing

Bruce: The hearing was taped and there was also a court reporter present for the hearing. The court reporter presently has the tapes, but if you would like to have copies please contact Sandi Scott in our office and she will arrange to get the tapes and make copies for you. There is a small charge, I believe it is \$5.00 per tape but you can confirm that with Sandi. Sandi's phone number is 701-328-4081.

My recollection is that the exhibits were introduced without objection. If you and your attorneys believe that the records should be confidential, a trade secret request can be submitted to the Commission.

Because your e-mail relates to exhibits introduced at the hearing, I am providing copies of the e-mail and my response to the Commissioners, involved staff as well as Mr. Negaard.

From: Bruce NDX [mailto:bruce@ndxcom.com]
Sent: Monday, July 24, 2006 4:13 PM
To: Binek, William W.
Cc: Bruce NDX; Bruce Selinger; Shaw Pittman
Subject: SmartNet Hearing

Hi Bill,

I was disappointed to miss the hearing on July 19th, but I understand Glenn Richards represented SmartNet very well. I am only now starting to feel better again. I am back to work today for the first time since Tuesday of last week. Since I wasn't at the hearing, I am hoping that the hearing was taped. If so, how do I get a copy?

Also, I was looking over the evidence presented by Negaard at the hearing. I have a few concerns. The information in Exhibits 9, 10 & 11 contains customer call records which includes every Consolidated, CCNI and BEC customer using CallSmart services. What the Plaintiffs have done is made our customer list a public record. Secondly, in all my years of telecommunications, we have been brainwashed that customer call records CANNOT be disclosed without proper authority, such as a subpoena. Did Negaard present a document that gave Consolidated, CCNI, BEC & NISC the authority to gather and share confidential customer records? If so, I would like a copy. If not, I would like the Exhibits 9, 10 & 11 pulled from public files and destroyed to mitigate damages. Regardless, please let me know at your earliest convenience whether any proof of authority to share customer call records was presented to the NDPSC.

If proper authority was not requested and granted, the Plaintiffs and NISC will have clearly violated two federal statutes - Section 222 of the Communications Act and Section 2702(a)(3) of the Stored Wire and Electronic Communications Act.

My guess is that North Dakota consumer protection laws have been violated as well.

Kind regards,

Bruce Burke