

Gruman, Mark E.

From: ndd_nef@ndd.uscourts.gov
Sent: Thursday, October 11, 2012 11:22 AM
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Subject: Activity in Case 4:12-cv-00091-DLH-CSM Missouri Valley Communications Inc v. North Dakota Public Service Commission et al Scheduling Order

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U.S. District Court

District of North Dakota

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Case Name: Missouri Valley Communications Inc v. North Dakota Public Service Commission et al

Case Number: [4:12-cv-00091-DLH-CSM](#)

Filer:

Document Number: [15](#)

Docket Text:

SCHEDULING ORDER by Magistrate Judge Charles S. Miller, Jr. Dispositive Motions due by 12/3/2012.(KT)

4:12-cv-00091-DLH-CSM Notice has been electronically mailed to:

Patrick W. Durick pwd@pearce-durick.com, annette@pearce-durick.com, sue@pearce-durick.com

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102 **PU-11-697** Filed: 10/11/2012 Pages: 6
APPEAL - Scheduling Order

Document description:Main Document

Original filename:n/a

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[STAMP dcecfStamp_ID=1102363164 [Date=10/11/2012] [FileNumber=536686-0
] [9076c0446562804dea2a2960a6c04aabbf7ea7699f0c2367ccf8f568f2f25646d25
91eae2544252c75e4fb1fd661aa83744070dfe89cb784b489c4ae7737ef2f]]

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA**

Missouri Valley Communications, Inc.)	Case No. 4:12-cv-091
)	
Plaintiff,)	
)	
vs.)	
)	
North Dakota Public Service Commission and)	
Kevin Cramer, Bonny Fetch and Brian Kalk,)	
in their official capacities as Commissioners)	
of the North Dakota Public Service)	
Commission, and Midcontinent)	
Communications, a South Dakota Partnership,)	
)	
Defendants,)	

SCHEDULING/DISCOVERY PLAN

Counsel for the parties conferred by telephone on October 5, 2012, and have agreed upon the following scheduling/discovery plan:

1. Rule 26(a)(1) does not apply because this matter is a review on an administrative record.
2. No discovery is requested or needed and the entire record of the arbitration that occurred before the North Dakota Public Service Commission has been provided to the Court.
3. The parties must file dispositive motions (summary judgment) on or before **December 3, 2012**. The parties must file a response to a motion for summary judgment **forty-one** days after a motion for summary judgment is filed. The parties must file any reply for summary judgment **fourteen** days after a response to a motion for summary judgment is filed.

4. Counsel have discussed between themselves and explored with their clients early involvement in alternative dispute resolution. The following option(s) would be appropriate in this case:

arbitration

mediation (choose one):

private mediator

court-hosted early settlement conference-should the conference

Be held before a judge who will not be the trial judge?

yes

doesn't matter

early neutral evaluation before (choose one):

judge other than trial judge

neutral technical expert

neutral attorney

other (specify) _____

none (explain reasons) _____

5. The parties **will not** voluntarily waive their rights to proceed before a district judge and consent to have a magistrate judge conduct any and all further proceedings in the case and order the entry of a final judgment.

Dated this 9th day of October, 2012.

By:

/s/ David J. Hogue

David J. Hogue, #04486

PRINGLE & HERIGSTAD

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(701) 852-0381
Attorneys for Missouri Valley Communications

Dated this 9th day of October, 2012.

By:

/s/ Zachary E. Pelham

Patrick W. Durick, #03141
Zachary E. Pelham, #05904
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Attorneys for Midcontinent Communications

Dated this 9th day of October, 2012.

By:

/s/ Mark Edward Gruman

Mark Edward Gruman, #06019
ND PUBLIC SERVICE COMMISSION
600 E. Blvd., Dept. 408
Bismarck, ND 58505-0480
(701) 328-2421
Attorneys for Public Service Commission

ORDER

The above scheduling/discovery plan is approved with no additions or modifications.

Dated this 11th day of October, 2012.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr.
United States Magistrate Judge