

FEDERAL COMMUNICATIONS COMMISSION
ENFORCEMENT BUREAU
MARKET DISPUTES RESOLUTION DIVISION
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December 8, 2015

Via E-Mail

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Re: *AT&T Mobility LLC (AT&T) v. Iowa Wireless Services LLC (iWireless)*, Proceeding No. 15-259; File No. EB-15-MD-007

Dear Counsel:

On October 21, 2015, AT&T filed a Motion for Interim Relief¹ along with its complaint in this matter.² iWireless filed an opposition to the Motion for Interim Relief on November 20, 2015.³ On November 30, 2015, AT&T filed a motion for leave to file a reply in support of its Motion for Interim Relief, with the proposed reply attached.⁴ On December 7, 2015, iWireless filed a paper opposing AT&T's Motion for Leave and seeking to strike AT&T's proposed reply, and arguing, in the alternative, that iWireless should be allowed to file an attached surreply to AT&T's reply.⁵

Although section 1.727(d) of the Commission's rules⁶ states that "[n]o reply may be filed to an opposition to a motion," section 1.3 provides that "[a]ny provision of the rules may be waived by the Commission on its own motion or on petition if good cause therefor is shown."⁷ AT&T argues that there is good cause for waiving section 1.727(d) to allow AT&T to file its proposed reply because iWireless's Opposition raises legal and factual issues that AT&T should be permitted to address.

AT&T points out that the Opposition disclosed, for the first time, the interim rates that iWireless proposed to charge AT&T during the pendency of this Complaint proceeding.⁸ AT&T argues that it thus had no opportunity to address in its Motion for Interim Relief whether those proposed rates are consistent

¹ Motion for Interim Relief, File No. EB-15-MD-007 (filed Oct. 21, 2015) (Motion for Interim Relief).

² Formal Complaint and Legal Analysis of AT&T Mobility LLC, EB-15-MD-007 (filed Oct. 21, 2015) (Complaint).

³ Opposition to Motion for Interim Relief, No. 15-259, EB-15-MD-007 (filed Nov. 20, 2015) (Opposition).

⁴ Motion of AT&T Mobility LLLC For Leave To File A Reply In Support Of Its Motion For Interim Relief, No. 15-259, EB-15-MD-007 (filed Nov. 30, 2015) (Motion for Leave).

⁵ Opposition to Motion for Leave; Motion to Strike Unauthorized Reply, Or, in the Alternative, Motion for Acceptance of Surreply, No. 15-259, EB-15-MD-007 (filed Dec. 7, 2015) (Opposition and Alternative Motion for Leave).

⁶ 47 C.F.R. § 1.727(d).

⁷ 47 C.F.R. § 1.3.

⁸ Motion for Leave at 1.

with the Commission's data and voice roaming rules and policies.⁹ AT&T contends that permitting AT&T to address iWireless's specific proposal would further the public interest by allowing the Commission to consider both parties' views regarding the validity of iWireless's proposal.¹⁰

We find, based on the arguments summarized above, that AT&T has established good cause to waive section 1.727(d) of our rules and allow AT&T to file a reply in support of its Motion for Interim Relief. In particular, we find that it would be beneficial to the Commission to have both parties' legal and factual arguments regarding the matters presented for the first time in iWireless's Opposition. Accordingly, we hereby grant AT&T's Motion for Leave and deny iWireless's motion to strike AT&T's reply.¹¹

We also find good cause to grant iWireless' request to file a surreply on the ground that iWireless should be accorded an opportunity to address material that was presented for the first time in AT&T's reply, such as AT&T's assertions regarding the impact of the arbitration on AT&T's Motion for Interim Relief.¹² Accordingly, we hereby grant iWireless' motion for acceptance of the surreply attached to its Opposition and Alternative Motion. No further pleadings will be permitted on AT&T's Motion for Interim Relief unless specifically directed by staff.

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Christopher Killion
Chief, Market Disputes Resolution Division

⁹ Motion for Leave at 2-3. In particular, AT&T argues that it had no opportunity to address in its Motion for Interim Relief the various factors iWireless cited in its Opposition to justify its proposal based on the "totality of the circumstances." *Id.* (citing Opposition at 3, 7).

¹⁰ Motion for Leave at 2.

¹¹ We find no merit in iWireless's assertion that it was improper for AT&T to attach a copy of the proposed reply to its Motion for Leave. *See* Opposition and Alternative Motion for Leave at 4. Attaching a proposed pleading to a motion seeking leave to file the pleading is a common and sensible practice.

¹² *See* Opposition and Alternative Motion for Leave at 6.