

FCC MAIL SECTION

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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DISPATCHED BY

In re Application of	)	CC Docket No. 94-11
TELEPHONE AND DATA SYSTEMS, INC.	)	File No. 10209-CL-P-715-B-88
	)	
For facilities in the Domestic	)	
Public Cellular Telecommunications	)	
Radio Service on Frequency Block B,	)	
in Market 715, Wisconsin 8 (Vernon),	)	
Rural Service Area	)	

O R D E R

Issued: August 26, 1994 ; Released: August 30, 1994

Under consideration is the Motion to Compel Discovery, filed by GTE Mobilnet Incorporated and the so-called Settlement Group<sup>1</sup>, on August 19, 1994.

Movants request an Order of the Presiding Judge compelling Telephone and Data Systems, Inc. (TDS), and the United States Cellular Corporation (USCC), and or SJI, Inc., to produce what Movants describe as a "promissory note" from LaStar Cellular Telephone Company, Inc., to Star Cellular Telephone Company in the amount of \$67,476.21, which, they claim, was assigned, by Memorandum from Alvin E. Kimble, dated July 31, 1987, to CSII of Baton Rouge, Inc. (CSII). It is their contention that the item should have been produced in response to their document request served on TDS and USCC. They request that an Order be issued compelling TDS and USCC to produce such a document, or, in the alternative, that they be required to produce the entire closing documents for the Star/USCC stock transfer.

Movants make note that counsel for USCC doubted whether such a document exists. However, they question whether an adequate search has been made. Clearly, if such a document exists, it would fall within the scope of the document request referenced above. Accordingly, counsel for TDS and USCC will report back to all parties to this proceeding on the results of their further search within seven days of the release date of this Order. This is considered to be sufficient time to conduct such a search, since it is assumed that TDS and USCC, mindful of the relevance of such a document to the issues at hand, have, in all probability, already engaged in such a search.

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<sup>1</sup> Century Cellunet, Inc., Contel Cellular, Inc., Coon Valley Farmers Telephone Company, Inc., Farmers Telephone Company, Hillsboro Telephone Company, Lavalley Telephone Cooperative, Monroe County Telephone Company, Mount Horeb Telephone Company, North-West Cellular, Inc., Richland-Grant Telephone Cooperative, Inc., Vernon Telephone Cooperative, and Viroqua Telephone Company.

The Presiding Judge, however, does not find good cause for requiring TDS and USCC to produce, in the alternative, all documents relating to the Star/USCC stock transfer. Any search for the "promissory note", assuming that such a note exists, would involve a search through these documents. If such a document does not exist, the relevance of these documents to the issues at hand has not been established. Accordingly, the alternative request will be denied. TDS and USCC will report back, after conducting the search mentioned above, within seven days of the release date of this Order, with a definitive statement as to whether or not such a note exists or ever existed, and if so, produce a copy of the note in question or indicate why it cannot be produced.

Movants also seek an Order from the Presiding Judge compelling certain witnesses to testify concerning communications for which a claim of privileged communication has been asserted. The Presiding Judge believes that in order to properly consider the merits of such claims, it is essential that he hear from those parties raising such a claim. Accordingly, they will file, within seven days of the release date of this Order, argument in support of their claim of privileged communication.

IT IS ORDERED, that the Motion to Compel Discovery, filed by GTE Mobilnet Incorporated and the Settlement Group on August 19, 1994, IS GRANTED to the extent that TDS and USCC will conduct the search discussed above and report back within seven days of the release date of this Order of the results of this search, and if the search is successful, they will produce the requested document at that time; that those parties claiming privileged communication, as referenced in the instant Motion to Compel, will submit argument in support of their claim, within seven days of the release date of this Order; and that the Motion is in all other respects denied.

FEDERAL COMMUNICATIONS COMMISSION



Joseph P. Gonzalez  
Administrative Law Judge