

Before the
Federal Communications Commission
Washington, D.C. 20554

FCC 07M-07
06089

In the Matter of)	EB Docket No. 06-53
)	
Arkansas Cable Telecommunications Association;)	
Comcast Of Arkansas, Inc.; Buford)	
Communications I, L.P. d/b/a Alliance)	
Communications Network; WEHCO Video, Inc.;)	
and TCA Cable Partners d/b/a Cox)	
Communications,)	File No. EB-05-MD-004
)	
Complainants,)	
)	
v.)	
)	
Entergy Arkansas, Inc.,)	
)	
Respondent.)	

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MEMORANDUM OPINION AND ORDER

Issued: February 22, 2007

;

Released: February 26, 2007

1. Under consideration are Complainants' Motion for Protective Order, filed on February 12, 2007, by Complainants,¹ and an Opposition to Complainants' Motion for Protective Order, filed on February 16, 2007, by Entergy Arkansas, Inc. ("EAI").

2. Complainants seek the issuance of a protective order quashing the notice of deposition issued by EAI to Geoffrey Buford, a Limited Partner for Buford Communications I, L.P., d/b/a Alliance Communications Network ("Alliance"). Complainants contend that "Mr. Buford has no information regarding the pole attachment issues in this proceeding or the specific events that led to [the] dispute [between EAI and Complainants]." Motion at 2. Moreover, Complainants assert that "Mr. Buford's name has only been mentioned twice in connection with the case, . . . first . . . in response to the question of who owned Alliance and . . . second in response to the question who was a principal investor." *Id.* at 2-3. Complainants further allege that the deposition of Mr. Buford "would be a worthless endeavor and a waste of time [and] valuable resources for everyone involved, [and] would also constitute an 'undue burden' on Mr. Buford." *Id.* at 6. EAI opposes the motion for protective order, maintaining that the motion is untimely and that it has a reasonable belief that Mr. Buford does have first-hand knowledge of matters that are directly relevant to the issues in this proceeding.

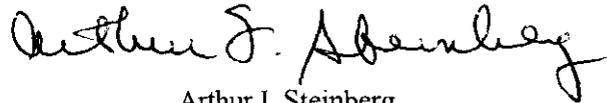
3. The motion for protective order will be denied. The motion is clearly untimely. Pursuant to Section 1.315(b)(1) of the Commission's Rules, a motion opposing the taking of a deposition must be filed within seven days of the service of the notice to take the deposition. Since

¹ Arkansas Cable Telecommunications Association, Comcast of Arkansas, Inc., Buford Communications I, L.P. d/b/a Alliance Communications Network, WEHCO Video, Inc., CoxCom, Inc., and Cebridge Acquisitions, L.P., d/b/a Suddenlink Communications.

the notice of deposition to Mr. Buford was served on December 18, 2006 (*see* Motion at 3), Complainants' motion for protective order should have been filed no later than December 26, 2006. However, the motion was not filed until February 12, 2007, and the motion did not even assert, much less establish, good cause for the late filing. Under these circumstances, the deposition of Mr. Buford may be taken. Section 1.315(d) of the Rules. Moreover, even assuming, *arguendo*, that the motion for protective order had been filed on time, for the reasons specified at pages 8-11 of EAI's opposition, the deposition of Mr. Buford "appears reasonably calculated to lead to the discovery of admissible evidence." Section 1.311(b) of the Rules.

Accordingly, IT IS ORDERED that Complainants' Motion for Protective Order, filed by Complainants on February 12, 2007, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Arthur I. Steinberg". The signature is written in a cursive style with a large, sweeping "S" at the end.

Arthur I. Steinberg
Administrative Law Judge