
Bricklin ♦ Newman ♦ Dold, LLP

DAVID A. BRICKLIN
CLAUDIA M. NEWMAN
JENNIFER A. DOLD



ATTORNEYS-AT-LAW
FOURTH AND PIKE BUILDING
1424 FOURTH AVENUE, SUITE 1015
SEATTLE, WA 98101-2217
TEL (206) 621-8868
FAX (206) 621-0512

February 21, 2003

VIA FACSIMILE

Robert J. Backstein, Hearing Examiner
Snohomish County Hearing Examiner's Office
M/S 405
3000 Rockefeller Ave.
Everett, WA. 98201

RE: Cingular's Second Request for Reconsideration - File No. 02 104238

Dear Mr. Backstein:

Yesterday, Cingular filed a fourteen page argument in support of its reconsideration request. This filing was untimely and improper. It should be stricken.

Cingular's attempt to submit further information and argument at this late date, i.e., after the deadline has passed for requesting reconsideration, is a violation of the Snohomish County Code and the Hearing Examiner's rules. Part 816(a) of the Hearing Examiner's rules states:

Petitions for Reconsideration will be considered on the merits of the written request. **No opportunity for supplementation or amendment after the close of the period for filing a reconsideration petition will be authorized or allowed**, except upon special request that such information is necessary as part of a fair hearing process and upon approval of the Examiner and notification to all parties who will then be allowed an opportunity to respond. (Emphasis supplied.)

No special request was made here. Therefore, it was improper for Cingular to "supplement" or "amend" its reconsideration request two weeks after the deadline.

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The Examiner's request to parties of record was clear: "Any party of record may submit written comments **in response to the Petition for Reconsideration.**" (Emphasis supplied.) Cingular's fourteen page letter is not "in response to" its own reconsideration request. It seeks to supplement it--in direct violation of Part 816(a). This document attempts to use the response period to file a second reconsideration request two weeks after the deadline.

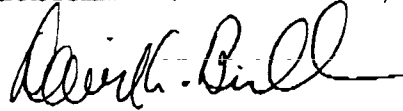
The framework for a reconsideration request is that the moving party must put all its cards on the table by the end of the 10-day period for filing a request for reconsideration. Other parties of record are then given an opportunity to respond (if the Examiner asks for comments). This procedure assures the other parties a fair opportunity to respond and is thwarted by Cingular's tardy submission. If Cingular's tardy submission were accepted, all other parties of record would be denied an opportunity to respond in clear contravention of the process set forth in the Code and the Examiner's rules.

Clearly, the Examiner's request for responses from the parties did not contemplate supplementation of the original reconsideration request by Cingular. If that is what the Examiner had intended, then the Examiner would have been obligated to provide other parties with an opportunity to respond to that supplemental reconsideration request. Rule 816(a) provides that if special circumstances necessitate supplementation of a reconsideration request, other parties shall be notified and "will then be allowed an opportunity to respond." That is not the procedure that the Examiner initiated here.

We ask that Cingular's February 20th submittal be disregarded and stricken from the record. Cingular limited the scope of reconsideration with its request for reconsideration filed on the 6th of February. No further issues or information can be raised by Cingular with the Examiner.

Very truly yours,

BRICKLIN NEWMAN DOLD, LLP



David A. Bricklin

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