GUNDERSON, PALMER, GOODSELL & NELSON, LLP

ATTORNEYS AT LAW

ASSURANT BUILDING
440 MT. RUSHMORE ROAD
POST OFFICE BOX 8045
RAPID CITY, SOUTH DAKOTA 57709-8045

TELEPHONE (605) 342-1078 • FAX (605) 342-0480
www.gundersonpalmer.com

ATTORNEYS LICENSED TO PRACTICE IN
SOUTH DAKOTA, NORTH DAKOTA, IOWA, NEBRASKA
COLORADO, MONTANA, WYOMING & MINNESOTA

J. CRISMAN PALMER
G. VERNE GOODSELL
JAMES S. NELSON
DANIEL E. ASHMORE
TERENCE R. QUINN
DONALD P. KNUDSEN
PATRICK G. GOETZINGER
TALBOT J. WIECZOREK
MARK J. CONNOT
JENNIFER K. TRUCANO
DAVID E. LUST

THOMAS E. SIMMONS
TERRI LEE WILLIAMS
PAMELA SNYDER-VARNS
SARA FRANKENSTEIN
AMY K. KOENIG
JASON M. SMILEY
SHANE C. PENFIELD
JONATHAN M. OOSTRA
MATTHEW E. NAASZ

WYNN A. GUNDERSON
Of Counsel

October 10, 2006

VIA FAX 1-605-773-3809
Patricia Van Gerpen
SD Public Utilities Commission
500 E Capitol Avenue
Pierre SD 57501

FROM: **Talbot J. Wieczorek**

RE: Docket File Number TC 06-159
Petition for Arbitration – Venture Communications Cooperative
GPGN File No. 5925.060537

NUMBER OF COPIES TRANSMITTED INCLUDING THIS SHEET: 25

COMMENTS:

ORIGINALS: ☒ **Next Day Delivery**

NOTE: If you do not receive all pages or have any problems with receiving, please call (605) 342-1078 and ask for Karen L. Webb. Thank you.

GUNDERSON, PALMER, GOODSELL & NELSON, LLP

ATTORNEYS AT LAW

J. CRISMAN PALMER
G. VERNE GOODSELL
JAMES S. NELSON
DANIEL E. ASHMORE
TERENCE R. QUINN
DONALD P. KNUDSEN
PATRICK G. GOETZINGER
TALBOT J. WIECZOREK
MARK J. CONNOT
JENNIFER K. TRUCANO
DAVID E. LUST

ASSURANT BUILDING
440 MT. RUSHMORE ROAD
POST OFFICE BOX 8045
RAPID CITY, SOUTH DAKOTA 57709-8045

TELEPHONE (605) 342-1078 • FAX (605) 342-0480
www.gundersonpalmer.com

ATTORNEYS LICENSED TO PRACTICE IN
SOUTH DAKOTA, NORTH DAKOTA, IOWA, NEBRASKA
COLORADO, MONTANA, WYOMING & MINNESOTA

THOMAS E. SIMMONS
TERRI LEE WILLIAMS
PAMELA SNYDER-VARNS
SARA FRANKENSTEIN
AMY K. KOENIG
JASON M. SMILEY
SHANE C. PENFIELD
JONATHAN M. OOSTRA
MATTHEW E. NAASZ

WYNN A. GUNDERSON
Of Counsel

October 10, 2006

VIA FAX: 605-773-3809
NEXT DAY DELIVERY
Patricia Van Gerpen
Executive Director
SD Public Utilities Commission
500 E Capitol Avenue
Pierre SD 57501

RE: Docket TC06-159, Venture Communications Cooperative's Petition for Arbitration
GPGN File No. 5925.060537

Dear Ms. Van Gerpen:

Enclosed for fax filing is Alltel's Response to Venture Communications Cooperative's Petition for Arbitration. The original and ten copies will follow by Next Day Delivery. Service has been made upon those parties listed in the Certificate of Service.

Please feel free to contact me with any questions.

Sincerely,

Talbot J. Wieczorek

TJW:klw
Enclosures
c: (w Encl) Darla Pollman Rogers
Ben H. Dickens & Mary Sisak
Rich Coit, SDTA
Client

STATE OF SOUTH DAKOTA

PUBLIC UTILITIES COMMISSION

In the Matter of the Petition of Venture Communications Cooperative for the Arbitration Pursuant to the Telecommunications Act of 1996 to Resolve Issues Relating to an Interconnection Agreement with Alltel Communications, Inc.	))))))))	Docket No. TC06-159

RESPONSE OF ALLTEL COMMUNICATIONS, INC. TO PETITION FOR ARBITRATION OF VENTURE COMMUNICATIONS COOPERATIVE

Alltel Communications, Inc. ("Alltel") hereby files this Response to the Petition of Venture Communications Cooperative ("Venture" or "Petitioner") for resolution of issues relating to negotiation of an interconnection agreement under the terms of the Telecommunications Act of 1996.

1. On September 14, 2006, Venture filed a Petition with the South Dakota Public Utilities Commission ("Commission") to arbitrate issues that were unresolved through negotiations with Alltel. This filing was made pursuant to Section 252 of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (codified at 47 U.S.C. § 151 *et seq.*) ("Act"). Statements in the Petitions not expressly admitted herein are denied.

2. Alltel is a commercial mobile radio service ("CMRS") provider serving South Dakota. Alltel holds licenses to provide cellular telecommunications service in SD1, SD2, SD3, SD4, SD5, SD6, SD7, SD8, and SD9 Rural Service Areas ("RSAs") as well as the Rapid City and Sioux Falls Metropolitan Service Areas ("MSAs") within the state of South Dakota.

3. Alltel is filing this Response to Venture's Petition pursuant to 47 U.S.C. § 252(b)(3). In this Response, Alltel will clarify its position on the issues identified by the Petition and identify additional open issues not included in the Petition.

JURISDICTION

4. Alltel agrees that the Commission has jurisdiction to consider this petition for arbitration pursuant to the Act, to resolve disputed issues related to arbitration, and to approve an interconnection agreement between Alltel and Venture in accordance with 47 U.S.C. § 252(c). Under the Act, the Commission is a deputized federal regulator in accordance with the role and the standards identified by Congress and the FCC. *Pacific Bell v. Pac West Telecom, Inc.*, 325 F.3d 1114, 1126 fn.10 (9th Cir. 2003). The Commission's authority is and must be carried out in accordance with the Act and the FCC rules adopted pursuant to the Act.

5. The Act and the Federal Communications Commission's ("FCC") rules impose interconnection and compensation obligations on local exchange carriers ("LECs") and CMRS providers, and establish standards to apply to interconnection arbitration proceedings. Among others, the following sections of the Act and FCC rules govern interconnection arrangements between Venture and Alltel:

- Section 251(a) of the Act requires all telecommunications carriers, including both CMRS carriers and local exchange companies, "to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers."
- Section 251(b)(5) of the Act imposes on all local exchange companies the "duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications."
- Section 252(d)(2)(A) of the Act provides that "for the purposes of compliance by incumbent local exchange carriers with section 251(b)(5), a State commission shall not consider the terms and conditions for reciprocal compensation to be just and reasonable unless (i) such terms and conditions provide for the mutual and reciprocal recovery by each carrier of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier, and (ii) such terms and conditions

determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls."

- FCC Rule 20.11(a) provides that "a local exchange carrier must provide the type of interconnection reasonably requested by a mobile service licensee or carrier, within a reasonable time after the request, unless such interconnection is not technically feasible or economically reasonable."

- FCC Rule 20.11(b)(1) requires that "a local exchange carrier shall pay reasonable compensation to a commercial mobile radio service provider in connection with terminating traffic that originates on facilities of the local exchange carrier."

- FCC Rule 51.701(e) defines the reciprocal compensation required by the Act to mean an arrangement "in which each of the two carriers receives compensation from the other carrier for the transport and termination on each carrier's network facilities of telecommunications traffic that originates on the network facilities of the other carrier."

- FCC Rule 51.701(b) imposes reciprocal compensation obligations on "telecommunications traffic between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area, as defined in § 24.202(a) of this chapter."

- FCC Rule 51.703(a) states that "each LEC shall establish reciprocal compensation arrangements for transport and termination of telecommunications traffic with any requesting telecommunications carrier."

- FCC Rule 51.703(b) provides that "a LEC may not assess charges on any other telecommunications carrier for telecommunications traffic that originates on the LEC's network."

- The FCC has forbidden the imposition of access charges as compensation for the transport and termination of telecommunications traffic subject to reciprocal compensation: "We reiterate that traffic between an incumbent LEC and a CMRS network that originates and terminates within the same MTA (defined based on the parties' locations at the beginning of the call) is subject to transport and termination rates under section 251(b)(5), rather than interstate or intrastate access charges." *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket 96-98, First Report and Order, FCC 96-325, 11 FCC 15499, ¶ 1043 (1996) ("*First Report and Order*").

- FCC Rule 51.711(a) provides:

  Rates for transport and termination of telecommunications traffic shall be symmetrical, except as provided in paragraphs (b) and (c) of this section.

> (1) For purposes of this subpart, symmetrical rates are rates that a carrier other than an incumbent LEC assesses upon an incumbent LEC for transport and termination of telecommunications traffic equal to those that the incumbent LEC assesses upon the other carrier for the same services.

- FCC Rule 51.207 provides:

> A LEC shall permit telephone exchange service customers within a local calling area to dial the same number of digits to make a local telephone call notwithstanding the identity of the customer's or the called party's telecommunications service provider.

6. While Alltel does not have sufficient information to confirm or deny the allegations of paragraph 1 of the Petition, Alltel does not contest them. As to the remainder of the paragraphs, unless specifically agree to herein, the paragraphs are denied.

7. Alltel confirms that Exhibit 1 attached to the Petition represents terms and conditions which the Parties discussed including terms that the Parties have reached agreement on and terms that are in dispute. Alltel does not concur that the document submitted by Petitioners fully represents its positions. Attachment A to the interconnection agreement incorrectly implies terms are in agreement. All terms of Attachment A of the interconnection agreement are in dispute.

8. The allegations of paragraphs 3 and 5 are admitted.

9. In addition to the Alltel representative identified in paragraph 4, Alltel identifies undersigned counsels as its representatives in this matter.

10. Alltel denies the Petitioner's characterization in paragraph 6 that this arbitration is a process to determine "... whether Venture's customers will be required to subsidize Alltel and its customers". The Petitioners business is already heavily subsidized by competing carriers,

including Alltel, and by customers of other carriers. The extent of this existing subsidization may be addressed within this arbitration.

11. Alltel further disagrees with that portion of Petition's paragraph number 6 wherein Venture asserts it does not have to meet the requirements of 47 USC 251(b) or arbitrate certain issues under 47 USC 252 because it may seek a suspension of issues in a possible subsequent filing. Having filed the arbitration Venture can not limit the scope of the arbitration by threatening to latter file a processing that would involve numerous other parties. Rather, Venture is legally bound to arbitrate all issues with Alltel within the legal timelines prescribed by 47 USC 252.

ARBITRATION ISSUES RAISED BY PETITIONER

12. The sixteen unresolved issues identified in the Petition, while, in some cases improperly characterized by Petitioner, are generally consistent with how Alltel would categorize certain aspects of those disputed issues. The following further clarifies the sixteen issues raised by the Petitioner.

Issue 1: Definition of InterMTA Traffic.

13. Petitioner's language limits the definition of InterMTA traffic beyond what is necessary. There is no industry standard prescribed for the treatment of nterMTA traffic in interconnection agreements. Further, there is neither prescription nor consensus on how to measure interMTA traffic. For these reasons, Alltel believes a broader definition of what constitutes 'InterMTA traffic" is appropriate. The real effect of this definitional issue will be resolved in conjunction with Issue 16(d).

Issue 2: How should the interconnection agreement identify traffic that is subject to reciprocal compensation? This includes the definition of Local Traffic, Telecommunications Traffic, and Third Party Provider

14. Petitioners seek to define traffic in a manner inconsistent with the Act and FCC rules implementing the Act. Local Traffic is not a term defined by the FCC and could easily be substituted with the term 'intraMTA' traffic which is consistent with how the FCC has defined traffic subject to reciprocal compensation and is consistent with Alltel's proposed definition. Telecommunications Traffic is defined by the FCC. FCC Rule 51.701(b)(2) defines the term "telecommunications traffic" to mean "traffic exchanged between a LEC and a CMRS provider that, at the beginning of the call, originates and terminates within the same Major Trading Area."[1] Alltel's proposed definition is consistent with the FCC definition and Petitioner's proposed definition is not. Petitioner's objection to Alltel's proposed language for Third Party Provider is another attempt to limit Petitioner obligations by excluding certain traffic they send to Alltel that is compensable under reciprocal compensation rules.

Issue 3: Definition of Wireline Local Calling Area

15. Petitioner's proposal to add a definition of Wireline Local Calling Area that, in its proposed use within the agreement, limits Petitioner obligations by excluding certain traffic they send to Alltel that is compensable under reciprocal compensation rules. Alltel opposes this definition to the extent that its use results in a limitation of Alltel rights under the Act and FCC rules.

Issue 4: Should the Agreement include reference to the FCC's Order on ISP Bound Traffic

16. To the extent that Venture exchanges ISP-bound traffic with other carriers and does not compensate those carriers or compensates those carriers at FCC prescribed ISP rates,

[1] 51 C.F.R. § 701(b)(2).

Alltel is entitled to similar compensation rates on the 252(b)(5) 'reciprocal compensation' traffic exchanged between Venture and Alltel. The FCC has found that

> It would be unwise as a policy matter, and patently unfair, to allow incumbent LECs to benefit from reduced intercarrier compensation rates for ISP-bound traffic, with respect to which they are net payers, while permitting them to exchange traffic at state reciprocal compensation rates, which are much higher than the caps we adopt here, when the traffic imbalance is reversed. ... we will not allow them to "pick and choose" intercarrier compensation regimes depending on the nature of the traffic... if an ILEC wishes to continue to exchange ISP-bound traffic on a bill and keep basis in a state that has ordered bill and keep, it must offer to exchange all section 251(b)(5) traffic on a bill and keep basis.[2]

Alltel believes that Venture is, today, terminating ISP traffic to other carriers and is not compensating those carriers. Even if Venture is not terminating ISP traffic today at lower rates, Alltel seeks inclusion of this language so that there is no doubt between the parties that Alltel is entitled to similar compensation terms in the event that Venture exchanges ISP traffic with any carrier during the term of this agreement.

Issue 5: Resale of Service

17. Venture has conceded, in its Petition, its obligation as an incumbent LEC to resell telecommunications services to Alltel. Alltel proposes that its Attachment B, copy attached as exhibit 1, to the Interconnection Agreement be adopted with the following language substitution in Section 5.3.1 of the Attachment:

> The Avoided Cost Discount of 0% shall apply to all resold retail services except those services listed in Section 2.2 herein.

---

[2] In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, CC Docket No. 96-98 and Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68, Order on Remand and Report and Order, Paragraph 89 (April 27, 2001)(the FCC ISP Order)

Issue 6: What is the appropriate designation for Point(s) of Direct Interconnection (POI).

18. Alltel has included language in Section 4.2.1 of the Agreement that will allow it to directly interconnect at any technically feasible point within a Venture service territory, including the option for a single interconnection point per LATA for all traffic destined to any exchange served by Venture. The Parties are responsible for associated costs on their respective sides of the POI.

Interconnection with a LEC's network (whether by direct or indirect interconnection) is governed by Section 251(a), which provides:

> Each telecommunications carrier has the duty (1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.[3]

Notably, with indirect interconnection, where the originating and terminating carriers do not share a common POI, interconnection necessarily is outside of a rural LEC's network.

19. The FCC, in interpreting Section 251(a), has held that it is competitive carriers – and not the incumbent – that have the right to choose whether to interconnect directly or indirectly, "based upon their most efficient technical and economic choices."[4] A wireless carrier's right to choose its preferred method of interconnection – direct or indirect – is also expressly allowed by 47 C.F.R. § 20.11(a): "A local exchange carrier must provide the type of interconnection reasonably requested by a mobile service licensee or carrier." In short, an incumbent LEC cannot require a wireless carrier to connect directly to its network.[5]

---

[3] 47 U.S.C. § 251(a)(1).

[4] *Local Competition Order,* 11 FCC Rcd at 15991 ¶ 997.

[5] *See, e.g., Virginia Arbitration Order,* 17 FCC Rcd 27039, 27085 ¶ 88 (2002)(FCC rejects incumbent's proposal to require competitive carriers to interconnect directly).

20. Alltel's proposed language is consistent with FCC rules[6] and should be adopted in the final arbitrated agreement.

21. It is unclear what Venture is proposing with respect to Section 4.2.2. It appears Venture has included language that already appears in 4.2.4 under this Section titled "Interconnection Facility Charges. Alltel addresses interconnection facility charges under Issue 12.

22. With respect to the language in 4.2.3 concerning Interconnection Facility Cost Sharing, Alltel is submitting its comments under Issue 16(c).

Issue 7: What requirements should be imposed regarding the transmission of SS7 signaling parameters?

23. This issue concerns the population of fields within the construct of SS7 signaling. Alltel has proposed language that each party will be responsible for using industry standards. Venture's language references a set of industry 'guidelines' and several specific record fields which are either incorrect, non-standardized, are not useful as applied to CMRS traffic. In the interest of meeting Petitioners' objections that Alltel has not specified which industry standards would be applicable, Alltel recommends that the Parties agree to transmit only those SS7 parameters that are within the industry standard GR-317-CORE regardless of how the call is routed, directly or indirectly.

Issue 8: Land-to-Mobile Traffic Direct Interconnection

24. Section 5.3 of the Agreement provides the conditions associated with Venture's routing of traffic to a direct interconnection between the Venture and Alltel networks. Utilization of a direct connection is an option available to Venture but is not mandated. Venture may use indirect interconnection methods to send traffic to Alltel's network. Venture's

---

[6] 47 C.F.R. §51.305(a)(2)

interpretation of the purpose of this section is entirely different and is in conflict with FCC rules and recent Federal Circuit Court of Appeals decisions[7].

Issue 9(a): Is Venture required to provide Dialing Parity to Alltel?

25. Alltel has proposed a provision, Section 5.4, requiring the Petitioner to provide Alltel local dialing parity. Dialing parity means that Petitioner is required to allow their end users to call Alltel assigned numbers on the same basis as they are able to call their own numbers. Dialing parity means that the Petitioner's end users are not required to dial additional digits to reach Alltel end user numbers or to pay additional charges for calls to Alltel telephone numbers as calls to a landline telephone number assigned to the same rate center. For example, traffic exchanged on a Petitioner's EAS route between two wireline end users should be dialed and rated no differently whether the end user is a wireline or wireless customer. FCC rules require Petitioners to provide dialing parity.

26. Section 251(b)(3) of the Act imposes on Petitioner the "duty to provide dialing parity to competing providers of telephone exchange service." The FCC's implementing local dialing parity rule provides:

> A LEC shall permit a telephone exchange service customer within a local calling area to dial the same number of digits to make a local telephone call notwithstanding the identity of the customer's or the called party's telecommunications service provider.[8]

27. The FCC has made clear that Petitioner's duty to provide local dialing parity extends to the CMRS Providers:

> We reject USTA's argument that the section 251(b)(3) dialing parity requirements do not include an obligation to provide dialing parity to CMRS providers.[9]

---

[7] See *WWC License L.L.C. v. Boyle*, 459 F3d 880 (8th Circuit 2006); *Atlas Telephone Co. v. Oklahoma Corporation Commission*, 400 F.3d 1256 (10th Cir. 2005).

[8] 47 C.F.R. § 51.207.

[9] *Second Local Competition Order*, 11 FCC Rcd 19391, 19429 ¶ 168 (1996).

28. Petitioner's obligation under federal law is clear. If wireless customers are assigned numbers rated in Petitioner's local or EAS calling scope, then Petitioner must allow its end users to dial those local numbers to reach wireless customers – whether Petitioner is interconnected directly or indirectly with the wireless carrier.

29. FCC rules do not require a wireless carrier to interconnect directly with the incumbent LEC as a further condition to using local numbers. Guidelines established under the auspices of the North American Numbering Council ("NANC"), a Federal Advisory Committee,[10] carriers may use local numbers *even if they use indirect interconnection.* Specifically, the Central Office Code administration guidelines state that "[e]ach switching center, each rate center and each POI may have unique V&H coordinates."[11] In other words, it is not necessary that local numbers assigned to wireless carriers, or to any other type carrier, be routed through Petitioner's wire center(s). Local numbers assigned to a wireless carrier can be routed through a third-party's tandem (*i.e.,* indirect interconnection).

30. This issue was recently decided by the Eighth Circuit Court of Appeals. The Court noted that the RLEC's argument was exactly the same as made by Petitioner:

> Great Plains's [the rural incumbent carrier] argument, in essence, is that the duty to provide local dialing parity under 47 U.S.C. § 251(b)(3) is dependent on the existence of a direct point of interconnection such that the duty to provide local dialing parity stops at the physical edges of the local exchange networks. As a practical matter, Great Plains argues this position because providing local dialing parity through tandem routing would impose various costs on Great Plains including transport costs and costs related to equipment and/or software changes.[12]

---

10 *See* 47 C.F.R. § 52.11.

11 Central Office Code (NXX) Assignment Guidelines, ATIS-0300051, at § 6.2.2 (Jan. 13, 2006).

12 *WWC License, L.L.C. v. Boyle*, 459 F.3d 880 (8th Cir. 2006).

The court rejected this argument, holding that the rural incumbent carrier was required to provide dialing parity in cases of indirect interconnection (what the court referred to as "tandem routing"). The court's rationale was based, in part, upon its reading of the section of the Act requiring dialing parity, 251(b)(3), and the FCC's implementing dialing parity rule, 47 C.F.R. § 51.207, both of which are quoted above:

> While the regulation speaks in terms of "customers within a local calling area" it does not specifically deal with issues of routing or interconnection, it does not define the term local calling area, and it does not suggest on its face that the phrase "local telephone call" has a meaning in this context different from the meaning assigned in other contexts. Accordingly, we do not find it appropriate to adopt the inference urged by Great Plains. We do, however, find several factors that aid in our interpretation of the local dialing parity provisions. First, all else being equal, if a provision of the Act is vague we are inclined to interpret the provision in a manner that promotes competition. . . . Such guidance suggests that we should be wary of interpretations that simultaneously expand costs for competitors (such as a requirement for direct connections) and limit burdens on incumbents (such as a limitation of dialing parity to local exchange boundaries). If a cost is imposed on a competitor, it becomes a barrier to entry and rewards the company who previously benefited from monopoly protection. Because Congress passed the Act with a clear intent to foster competition, we are more inclined to interpret a vague provision in a manner that reduces barriers to entry.[13]

Petitioner is required by federal law to provide dialing parity for all traffic exchanged with the CMRS Providers, whether such traffic is exchange through direct or indirect interconnection. The attached Alltel Proposed Agreement includes language consistent with Alltel's right to dialing parity.

Issue 9(b) N-1 Carrier Obligations

31. Alltel proposes that language be included in the final interconnection agreement which requires the parties to fulfill their 'N-1 Carrier' routing obligations for traffic terminating to ported numbers on the other party's network. "N-1 Carrier' routing obligations stem from the

[13] *Id.*

North American Numbering Council rules adopted as a result of the implementation of local number portability. While the Petitioners have thus far avoided LNP implementation and, therefore, do not have to port their own numbers to other carriers, they have not been relieved of the obligation to properly route their originated traffic to other carriers. When the Petitioners' customer originates a call to another carrier's ported number, the Petitioner is the N-1 Carrier, and it is necessary for it to dip the LNP data base in order to determine if the called number is ported and to what carrier the call should be delivered. When the N-1 Carrier does not dip the data base itself, it forces the terminating carrier to do the dip in order to receive the call. The terminating carrier then incurs the data base dip charge as well as costs associated with transporting and terminating the call to the appropriate carrier. Section 5.4 of the attached Alltel Proposed Agreement includes language that would require the originating carrier to perform the data base dip for its originated traffic. The Petitioner has failed to implement appropriate 'N-1 Carrier' routing and has not proposed language to address this obligation. Alltel's proposed language should be adopted.

Issue 10: Should Compensation for the Transport and Termination of IntraMTA Traffic be symmetrical and reciprocal?

32. Venture proposes asymmetrical compensation in direct contravention of the Telecom Act and their language cannot be accepted by the Commission. The applicable statutes and rules require that a LEC's transport and termination rate be reciprocal and symmetrical.[14]

Issue 11: What rate, if any, should be applied to the exchange of InterMTA Traffic?

33. Venture proposes that the rate for interMTA traffic be derived from their tariff access charge rates. While Alltel has negotiated agreements that utilize an access rate as a proxy rate for interMTA traffic, Alltel disagrees that there is any FCC rule or Telecom Act prescription

---

[14] 47 C.F.R. § 51.711

that mandates that access rate elements be used for rating interMTA traffic. Nevertheless, Alltel stands by its offer to utilize the appropriate transport and terminating rate elements from Venture's Interstate Access Tariff as the basis for the rating of interMTA traffic.

Issue 12: How should Venture provide direct interconnection facilities be priced?

34. Alltel is unclear of Venture's characterization of the language proposed in Section 6.3 of the agreement. Alltel's reading is that the differences between the Parties relate to the pricing of direct interconnection facilities that are provided by Venture to Alltel to enable Alltel to reach a point of interconnection. Alltel proposes such facilities, if any, be priced from Venture's Interstate Access Service Tariff and Venture proposes pricing from their Intrastate Access Service Tariff. The use of and payment for such facilities is neither contingent upon nor subsumed in Issue 6.

35. Venture did propose, in its discussion on Issue 6, interconnection facilities be priced in accordance with their local service rates based on the nature of the traffic carried on such facilities[15]. Venture's basis for using their local pricing guide is wrongly applied. An incumbent LEC is required to price interconnection facilities for CMRS providers at the lowest rates that are economically reasonable. Any charges for interconnection facilities should be based on the forward looking cost of the facilities. Venture should perform a forward looking cost study to justify any rate it assesses on interconnection facilities. In the alternative, Alltel is willing to accept one of the following options to resolve this matter:

- Adopt the language that addressed interconnection facility pricing in the prior interconnection agreement: "... such facilities will made available and the price will be based upon the lowest Telephone Company interstate or intrastate rate published in the Telephone Company's tariff or pricing catalog."
- Adopt the FCC default rates as per 47 C.F.R. § 51.513(c)(3) "Dedicated transmission links. The proxy-based rates for dedicated transmission links shall be not greater than the incumbent LEC's tariffed interstate charges for

[15] See Petition Paragraph 23

comparable entrance facilities or direct-trunked transport offerings as described in §§ 69.110 and 69.112 of this chapter."

Issue 13: Bill and Keep Terms for Balanced Traffic

36. Alltel has proposed a threshold at which the Parties would agree that traffic exchange is roughly in balance. When this threshold is reached both Parties would receive the benefit of avoiding the often substantial administrative burden of measuring, billing, and paying each other for compensation to no net avail. Alltel's proposed language is symmetrical so that both parties receive the same benefit from this traffic balance threshold.

Issue 14: Should a factor based Billing Method be permitted under the Agreement?

37. Alltel's position is that the interconnection agreement should follow industry standard and allow for a 'net billing' approach or a 'factor billing' method. Agreement language that sets out this method is provided in Section 7.8 of the attached Alltel Proposed Agreement. This method is necessary to support reciprocal compensation billing by Alltel.

Issue 15: Regulatory Approval

38. Since the results of this arbitration will dictate the terms and conditions to which the interconnection agreement must be conformed and the Commission will order the parties to file such a conformed agreement, Alltel agrees that the language disputed by the Petitioner is no longer relevant.

Issue 16: Rates and Factors

39. Attachment A to the Interconnection and Reciprocal Compensation Agreement would contain the primary rates and factors that will dictate compensation between the parties for usage-based services. Since each of the rates or factors cited in Attachment A is a significant issue, Alltel has subdivided Issue 16 to focus the discussion on each of these key terms.

Issue 16(a) What is the appropriate rate for the Transport and Termination of 251(b)(5) Traffic (aka Reciprocal Compensation Rate)?

40. FCC rules require that an incumbent LEC "must prove to the state commission that the rates [for call termination] do not exceed the forward-looking economic cost per unit of providing [call termination] using a cost study that complies with the [FCC's TELRIC] methodology.[16]

41. Alltel has not had the opportunity to conduct discovery on Petitioner's latest cost study. Therefore, a detailed assessment and response with respect to the Petitioners' proposed rates is not possible. However, even a cursory review of the Petitioner proposed rate, reveals that the rate substantially exceeds the cost justifications presented in an arbitration conducted in 2002/2003.[17] In that arbitration, Alltel, after review of cost data provided by the Petitioner at that time, determined that a reciprocal compensation rate derived in a manner consistent with the Act[18] would be no more than $.003289 per minute of use[19].

42. It is clear that the rates now proposed by the Petitioner cannot be justified under a forward-looking methodology. In fact, Petitioner is proposing forward looking costs in this proceeding that are 220% higher than were put forth in Petitioner's testimony in an arbitration more than three years ago[20] and are seeking reciprocal compensation rates that exceed those which they voluntarily negotiated more than three years ago. Petitioner has not satisfied their

---

[16] 47 C.F.R. § 51.505(e)

[17] See docket TC 02-176

[18] 47 U.S.C. § 252(d)(2)

[19] See Prefiled Rebuttal Testimony of Brian F. Pitkin, p.57, Docket No. TC02-176

[20] In an arbitration proceeding in 2003, Petitioner expert cost witness recommended a transport and termination cost for Venture of $.021907. See Prefiled Surrebuttal Testimony of Douglas Meredith, p. 49, Docket No. TC02-176

burden to prove that the costs put forth in their petition comply with the FCC rules imposed on ILEC transport and termination costs.

Issue 16(b) Traffic Factor: In the event Alltel does not measure intercarrier traffic for reciprocal compensation billing purposes, what intraMTA Traffic Factor should apply?

43. A traffic factor should be determined in the absence of measurement to facilitate reciprocal compensation due Alltel. The Petitioner's have proposed a 30% Land to Mobile traffic factor without offering any support for their proposal. In the absence of evidence to the contrary, this factor should be set at 50% Land to Mobile and 50% Mobile to Land consistent with the FCC's guidance that there is a presumption of balanced traffic. Venture has not provided evidence to rebut the presumption of balanced.

Issue 16(c) Shared Facility Factor

44. Shared facility factors are often used to apportion costs of interconnection facilities when one Party uses the dedicated interconnect facilities of the other Party. Such a factor should be determined based on the actual usage that crosses the shared facility. Alltel language supports this concept. Petitioner proposed factors wrongly presume that direct interconnection facility usage would be the same as overall traffic exchange between the Parties. This is simply not the case. In addition to any traffic that is exchanged over direct interconnection facilities, both Parties in this proceeding exchange traffic indirectly at proportions that are unrelated to how the direct facilities are used. For this reason, a shared facility factor must be established that is unique to the use of each such facility.

Issue 16(d) InterMTA Factor

45. InterMTA factors are often used to designate an amount of traffic exchanged between two carriers that is estimated to originate and terminate in different MTAs. Venture proposes an interMTA factor of 9% without offering any support for their proposal. Petitioners'

proposed factor is not appropriate. It is Alltel's position that, to the extent an interMTA factor is included at all, that factor should reflect the net amount of interMTA traffic exchanged between the Parties. A net interMTA factor provides for each Party to realize compensation for termination of interMTA traffic originated by the other Party. In other words, Petitioner should be required to compensate Alltel with respect to their originated interMTA traffic just as Alltel would compensate Petitioner for Alltel's originated interMTA traffic.

REQUEST FOR RELIEF

Alltel respectfully requests that the Commission:

1. Arbitrate the unresolved issues between Alltel and Venture;

2. At the conclusion of this proceeding, issue an Order approving an Interconnection Agreement between Alltel and Venture, to be effective upon approval, and reflecting Alltel's position with respect to the unresolved issues as described above; and

3. Issue such other orders as are just and proper.

Respectfully submitted,

Dated: October 10, 2006

Talbot Wieczorek
Gunderson, Palmer, Goodsell & Nelson, LLP
440 Mt Rushmore Road
Rapid City, South Dakota 57701

Stephen B. Rowell
Alltel Communications, Inc.
One Allied Drive
Little Rock, Arkansas 72202

ATTORNEYS FOR ALLTEL COMMUNICATIONS, INC.

CERTIFICATE OF SERVICE

The undersigned certifies that on the 10th day of October, 2006, I served a true and correct copy of the foregoing **Alltel's Response to the Petition of Venture Communication Cooperative for Intervention**, via U.S. Mail, first-class, postage paid to:

Darla Pollman Rogers Riter, Rogers, Wattier & Brown LLP PO Box 280 319 South Coteau Street Pierre, SD 57501 Ben H. Dickens, Jr. Mary J. Sisak Blooston, Mordkofsky 2120 L Street, NW - #300 Washington, DC 20037	Richard Coit SD Telecommunications Assoc. PO Box 57 320 E Capitol Ave Pierre SD 57501-0057

Talbot J. Wieczorek

1. General. The purpose of this Attachment is to define specifically the exchange services and related vertical features and other telecommunication services (collectively referred to for purposes of this Attachment as the "Services") that may be purchased from Venture and resold by Alltel and the terms and conditions applicable to such resold Services. Venture will make available to Alltel for resale any Service that Venture currently offers, or may offer hereafter, on a retail basis to subscribers that are not telecommunications carriers, except as qualified by this Article V, below.

2. Terms and Conditions.

2.1. Restrictions on Resale. All resold services shall only be provided to Alltel under applicable Venture retail tariff terms and conditions. The following restrictions shall apply to the resale of retail services by Alltel.

2.1.1. Alltel shall not resell to one class of customers a Service that is offered by Venture only to another class of customers in accordance with state requirements (e.g., R-1 to B-1, disabled services or lifeline services to non-qualifying customers).

2.1.2. Alltel shall not resell promotional offerings of ninety (90) days or less in duration. Venture will charge Alltel the applicable retail service rate rather than the special promotional rate for these offerings.

2.2. Volume, Term and Other Discounts on Resold Services. Alltel may resell services that are provided at a volume, term or other discount in accordance with terms and conditions of the applicable tariff. Alltel shall not aggregate end-user lines and/or traffic in order to qualify for a volume, term or other discount. The volume, term or other discounts shall be applied to the price first, followed by the Avoided Cost Discount.

2.3. Resale to Other Carriers. Services available for resale may not be used by Alltel to provide access to the local network as an alternative to tariffed switched and special access by other carriers, including, but not limited to, interexchange carriers, wireless carriers, competitive access providers, or other retail telecommunications providers.

3. Ordering and Billing.

3.1. Service Ordering, Service Provisioning and Billing. Except as specifically provided otherwise in this Agreement, service ordering, provisioning, billing and maintenance shall utilize industry standard processes.

3.2. Local Service Request (LSR). Orders for resale of services will be placed utilizing standard LSR forms as per current Local Service Ordering Guide format. Complete and accurate forms must be provided by Alltel before a request can be processed.

3.2.1. Venture will accept orders for As-Is Transfer (AIT) of services from Venture to Alltel where Venture is the end-user's current local exchange company.

EXHIBIT 1

3.2.2. Alltel will be the customer of record for all Services purchased from Venture. Except as specified herein, Venture will take orders from, bill and expect payment from Alltel for all Services ordered.

3.3. Nonrecurring Charges. Alltel shall be responsible for the payment of all nonrecurring charges (NRCs) applicable to resold Services (e.g., installation, changes, ordering charges). In addition, NRCs for field service work (installation/repair requiring on site visits) will be charged from the appropriate tariff. No Avoided Cost Discount or other discount applies to nonrecurring charges.

3.4. End-User Transfers Between Alltel and Another Reseller of Venture Services. When Alltel has obtained an end-user customer from another reseller of Venture services, Alltel will inform Venture of the transfer by submitting standard LSR forms to Venture.

3.5. Local Calling Detail. Except for those Services and in those areas where measured rate local service is available to end-users, monthly billing to Alltel does not include local calling detail. However, Alltel may request and Venture shall consider developing the capabilities to provide local calling detail in those areas where measured local service is not available for a mutually agreeable charge.

3.6. Originating Line Number Screening (OLNS). Upon request and where Venture is technically able to provide and bill the service, Venture will update the database to provide OLNS, which indicates to an operator the acceptable billing methods for calls originating from the calling number.

3.7. End-Users With An Unpaid Balance If an end-user has an unpaid balance with Venture, Venture will be unable to process a Alltel service order for the end-user until the balance is paid, unless this condition is precluded by State or other regulatory law.

4. Maintenance, Testing and Repair. Venture will provide repair and maintenance services to Alltel and its end-user customers for resold Services in accordance with the same standards and charges used for such Services provided to Venture end-user customers. Venture will not initiate a maintenance call or take action in response to a trouble report from a Alltel end-user until such time as trouble is reported to Venture by Alltel. Alltel must provide to Venture all end-user information necessary for the installation, repair and servicing of any facilities used for resold Services.

5. Services Available for Resale.

5.1. Description of Local Exchange Services Available for Resale. Services available to Alltel for resale are limited to circumstances and service areas where Venture is technically able to provide and bill for the service. Resold basic exchange service includes, but is not limited to, the following elements:

5.1.1. Voice Grade Local Exchange Access Line - includes a telephone number and dial tone together with:

5.1.1.1. Access to long distance carriers; however, it is the responsibility of Alltel to order non-Local Traffic calls provided by other carriers directly from such carriers. Venture has no ordering or payment obligations in connection therewith, and Alltel assumes full responsibility for such obligations,

5.1.1.2. E-911 Emergency Dialing,

5.1.1.3. Access to Service Access Codes - e.g., 800, 888, 900,

5.1.1.4. Listing of telephone number in an appropriate "white pages" directory,

5.1.1.5. Copy of "White Pages" and "Yellow Pages" Directories for the appropriate Venture service area,

5.1.1.6. Local Calling - at local usage measured rates if applicable to the end-user customer.

5.1.1.7. End-user Private Line Services.

5.2. Other Services Available for Resale.

5.2.1. New Retail Services. Any new retail services that Venture offers in such tariffs to customers who are not telecommunications carriers may also be available to Alltel for resale under the same terms and conditions contained in this Agreement.

5.2.2. Promotional Services. Venture shall make available for resale, those promotional offerings that are greater than ninety (90) days in duration and the special promotional rate will be subject to the applicable resale Avoided Cost Discount.

5.3. Rates. The prices charged to Alltel for local services shall be calculated as follows:

5.3.1. The Avoided Cost Discount of 15% shall apply to all resold retail services except those services listed in Section 2.2 herein.

5.3.2. The Avoided Cost Discount dollar amount calculated under Section 5.3.1 above will be deducted from the retail rate.

5.3.3. The rate resulting from the computations in Sections 5.3.1 and 5.3.2 is the resale rate.

5.4. Grandfathered Services. Services identified in Venture tariffs as grandfathered in any manner are available for resale only to end-user customers that already have such grandfathered service. An existing end-user customer may not move a grandfathered service to a new service location. Grandfathered services are subject to a resale Avoided Cost Discount, where applicable.

6. Responsibility for Miscellaneous Charges by Alltel's Customer. Alltel shall be responsible for the payment of any and all charges incurred by Alltel's customer from using the following types of services, where Alltel has not requested blocking of said services or where blocking of said services is not available:

6.1. Casual use charges.

6.2. CLASS features charges.

6.3. Casual dial around non-Local Traffic charges.