



South Dakota Telecommunications Association
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Rural roots, global connections

May 24, 2006

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**SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION**

Ms. Patty Van Gerpen, Executive Director
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Ave.
Pierre, SD 57501

RE: Docket TC06-043, (In the Matter of the Approval of Reciprocal
Compensation Agreement between James Valley Cooperative Telephone
Company and Alltel Communications, Inc.)

Dear Ms. Van Gerpen:

The South Dakota Telecommunications Association ("SDTA") offers this letter as its initial comments in the above referenced matter, in response to the public notice contained in this Commission's "Weekly Filings" report for the period of May 4, 2006 through May 10, 2006.

Regarding the Reciprocal Compensation Agreement that has been filed for approval jointly by James Valley Cooperative Telephone Company (James Valley) and Alltel Communications, Inc. (Alltel), SDTA has a couple of concerns that it feels compelled to note for the record.

First, the provisions in the Agreement relating to "Compensation" contained in Section 6, in part, propose the establishment of a single or unified rate for "all Telecommunications traffic originating on Alltel's network and terminated to James Valley's network." According to the other provisions in that Section, this "is a composite rate for the exchange of all Telecommunications Traffic between the parties. . . . Any reciprocal compensation due to Alltel is incorporated into this net rate payable to James Valley. [And] [a]ny compensation for InterMTA traffic is incorporated into this net rate payable to James Valley."

SDTA does not believe the establishment of a single unified rate, in situations where terminated telecommunications traffic is known to include both local and non-local is an appropriate practice. The importance of specifically identifying telecommunications traffic originated and terminated on the public switched telephone network is underscored by the statutory provisions set forth in SDCL §§ 49-31-110 through 49-31-115. These provisions require carriers that are exchanging traffic to take certain steps that will enable the appropriate identification of telecommunications traffic so that "appropriate

applicable transport and termination or access charges” can be determined and applied. The language set forth in Section 6 of the proposed Agreement between James Valley and Alltel is inconsistent with the intent of these cited state statutes. In addition, to the extent application of the single unified rate proposed in the Reciprocal Compensation Agreement results in the assessment of charges other than applicable switched access charges on InterMTA or non-local minutes of use (MOU) terminated by James Valley, the Agreement works to invalidate James Valley’s applicable intrastate and interstate access tariffs and results in a discriminatory application of the established switched access rates.

Under SDCL § 49-31-11 it is unlawful for a telecommunications company subject to this Commission’s jurisdiction to “unjustly or unreasonably discriminate between persons in providing telecommunications services or in the rate or price charged for those services.” The statute further provides that “[n]o telecommunications company may offer a rate or charge, demand, collect or receive from any person a greater or lesser compensation for any telecommunications service offered than it charges, demands, collects or receives from any other person for providing a like telecommunications service. [And], that “[n]o telecommunications company may make or give any unjust or unreasonable preference or advantage to any person, nor unjustly or unreasonably prejudice or disadvantage any person, in the provision of any telecommunications service.” There is no exception set forth in this statute for telecommunications traffic that is terminated by LECs for CMRS carriers and there is also no language in the statute that would indicate its provisions do not apply to LEC switched access charges.

SDTA believes that the single unified rate proposed by James Valley and Alltel, because it permits the assessment of rates to Alltel for non-local telecommunications traffic that are different than the rates established in James Valley’s regulated switched access tariffs, results in inappropriate discriminatory treatment between telecommunications carriers contrary to the provisions of SDCL § 49-31-11. Applying the single unified rate to Alltel’s non-local telecommunications traffic, instead of James Valley’s higher switched access charges, gives “unjust” or “unreasonable” preference to Alltel and, in turn, extends an unjust or unreasonable “prejudice or disadvantage” to other telecommunications carriers (including the many landline long distance companies) that originate and send similar telecommunications traffic to James Valley for termination. Because of this discriminatory treatment, the Agreement further appears inconsistent with the standards governing this Commission’s review of the Agreement set forth in 47 U.S.C. § 252(e)(2).

Secondly, SDTA would also note for the record that it does not support, as an industry association, certain of the “Direct Interconnection” provisions contained in Section 4 of the proposed Reciprocal Compensation Agreement. In Section 4.2.1 of the Agreement, specifically, the parties “agree to establish a single POI in Aberdeen, South Dakota for the exchange of all Traffic between their respective networks.” It appears through this provision that James Valley has possibly agreed to take on originating transport responsibilities that extend outside of its established local calling areas and also outside of its cooperative service area. If this is the case, the agreed upon provisions are not

supported by the SDTA. The provisions, although agreed to by James Valley (a SDTA member company), should not be interpreted by this Commission to represent any change in the position of the SDTA on transport responsibility issues. SDTA continues to believe, as it has argued to this Commission in prior proceedings and before the FCC in its pending Inter-carrier Compensation proceedings, that rural telephone companies are not obligated to deliver their originated traffic to points of interconnection outside of their established local calling areas or established service areas. They are also not obligated under the provisions of 47 U.S.C. § 251(c)(2) to establish points of interconnection on facilities that exist outside of their own networks.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard D. Coit", written in a cursive style.

Richard D. Coit, Executive Director and General Counsel
South Dakota Telecommunications Association

cc: James M. Cremer
Talbot J. Wiczorek