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July 24, 2008

### E-FILING

Patricia Van Gerpen  
South Dakota Public Utilities Commission  
Capitol Building, 1<sup>st</sup> Floor  
500 East Capitol Avenue  
Pierre SD 57501-5070

RE: Alltel Communications – Swiftel Suspension  
TC07-007 GPGN File No. 05925.0041

Dear Ms. Van Gerpen:

Enclosed please find Alltel's Reply to Swiftel's Motion to Compel with Exhibit A (Alltel's Response to Swiftel's First Set of Discovery) which does not contain any confidential documents. By copy of same, counsel have been served.

If you have any questions, please contact me.

Sincerely,



Talbot J. Wieczorek

TJW:klw

Enclosures

c: Service List  
Client

BEFORE THE PUBLIC UTILITIES COMMISSION

STATE OF SOUTH DAKOTA

In the Matter of the Petition of Brookings Municipal Utilities d/b/a for Suspension or Modification of Dialing Parity, Number Portability and Reciprocal Compensation Obligations. )  
Docket No. TC07-007

**ALLTEL COMMUNICATIONS, INC.'S RESPONSE TO SWIFTEL COMMUNICATIONS' MOTION TO COMPEL**

Alltel Communications, Inc. ("Alltel"), by and through its undersigned attorneys, hereby files this Response to Swiftel Communications' ("Swiftel") Motion to Compel. Denial of Swiftel's Motion is appropriate because Swiftel seeks onerous and unduly burdensome discovery of irrelevant information in the current proceeding for suspension of Swiftel's local number portability, dialing parity and reciprocal compensation obligations under 47 U.S.C. § 251(f)(2).

**BACKGROUND**

On January 30, 2007, Swiftel filed the current Petition, pursuant 47 U.S.C. § 251(f)(2) and SDCL § 49-31-80, seeking the extraordinary relief of suspension or modification of its long-standing local number portability, dialing parity and reciprocal compensation obligations. Alltel intervened as an interested party.

In the requested relief, Swiftel has asked the Commission to make a determination it should be suspended from its obligation to transport ported numbers beyond its service territory, regarding dialing parity, its obligation to transport local calls to a point beyond its services territory and to bar its customers from having the ability to dial calls as local and require Sprint to transport the calls beyond its wire line local calling area. Finally, as to its reciprocal compensation, Swiftel has requested that it should not have to pay reciprocal compensation if a call is handed off to an IXC for delivery outside of Swiftel's wire line local calling area.

## DISCUSSION

Through its Motion to Compel Swiftel seeks a significant amount of information related to Alltel's operations. However, such information with respect to one competitor's costs and operations, is irrelevant and not likely to lead to admissible evidence.

### **I. The Information Sought is Not Relevant to the Current Petition for Suspension.**

In order to grant the suspension/modification relief requested, Swiftel must affirmatively demonstrate that its request is necessary (i) to *avoid* a significant adverse economic impact of telecommunication users; or (ii) to *avoid imposing a requirement* that is unduly economically burdensome; and (iii) the exercise of such relief must be consistent with the public interest. *See* 47 U.S.C. § 251(f)(2). (*emphasis added*). The plain language of the statute is clear – Swiftel must first demonstrate the significant adverse economic impact resulting from its compliance with its obligations. Only in the event Swiftel demonstrates severe economic impact as a result of compliance with its statutory obligation is avoidance or modification relief appropriate. Proving that the current requirements are significant and economically harmful to Swiftel has nothing to do with an examination of Alltel's costs or operations. Therefore, the proper statutory analysis under section 251(f)(2) involves assessing the economic impact on Swiftel.

Alltel's specific costs and operation are also irrelevant because through its Petition, Swiftel seeks general relief from its obligations not just with respect to Alltel, but relief from its obligations with respect to all competitors. Therefore, its attempt to support its claims for relief upon only an analysis of Alltel's costs and operation is clearly inappropriate when it requests relief from all competitors who are entitled to establish reciprocal compensation arrangements. This is further evidence of section 251(f)(2)'s requirement to examine the economic impact of the current obligation on the petitioning party.

In conjunction with the requirements of 47 U.S.C. § 251(f), this Commission has previously heard a suspension filing by Swiftel in TC04-047. In that filing, the Commission concluded that the undue economic burden focuses on “Swiftel and its/their customers.” See Statement of Fact 47 to Amended Final Decision and Order, January 5, 2005, filing Docket No. TC04-047. See also Conclusions of Law 5 and 6. As to the public interest portion of the test, again the Commission looked only to the impact on the RLEC. See Findings of Fact 15. Therefore, questions or discovery on Alltel’s costs and operation have absolutely no relevancy and are not likely to lead to admissible evidence.

**II. Swiftel’s Motion to Compel seeks information not readily available.**

Finally, Swiftel’s requests for Alltel’s cost and MOU data within the South Dakota MTA is overbroad and unduly burdensome. Unlike incumbent local exchange carriers like Swiftel, Alltel has never been required to compile and submit any cost information for the purposes of establishing reciprocal compensation arrangements. Therefore, Alltel does not gather, record and/or report the detailed traffic information Swiftel seeks through discovery. In order for Alltel to gather the vast amount of cost information requested it would have to undertake an unprecedented, expensive and time-consuming audit, data search and collection effort. This extremely burdensome effort is entirely unnecessary given the irrelevant nature of the information sought. As a result, Alltel requests denial of Swiftel’s Motion to Compel pursuant to S.D.C.L. § 15-6-26(b).

**III. Discovery Standard**

Public Utilities Commission Administrative Rule 20:10:01:22.01, provides that, “The taking and use of discovery shall be in the same manner as in the circuit courts of this state.” “South Dakota Codified Law § 15-6-26(b)(1) establishes the general scope *and limits* of

discovery.” Public Entity Pool for Liability v. Score, 2003 SD 17, ¶ 20, 658 N.W.2d 64

(*emphasis added*). The rule states,

- (1) In general. Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action. . . . [.]

S.D.C.L. § 15-6-26(b)(1)(*emphasis added*). “...[D]iscovery, like all matters of procedure, has ultimate and necessary boundaries.” Kaarup v. St. Paul Fire and Marine Insur. Co., 436 N.W.2d 17, 20 (S.D. 1989)(*citing Hickman v. Taylor*, 329 U.S. 495, 507 (1947)). “The proper standard for ruling on a discovery motion is whether the information sought is ‘relevant to the subject matter involved in the pending action....’” Id. (*citing* S.D.C.L. § 15-6-26(b)(1)); State v. Buchholz, 1999 SD 110, ¶ 27, 598 N.W.2d 899, 904. As a consequence, it is appropriate to deny motions to compel which seek subject matter that bears no relevance to the issues in the pending litigation. Kaarup, 436 N.W.2d at 20.

“When discovery efforts go beyond those subjects not ‘reasonably calculated to lead to the discovery of admissible evidence,’ a court has authority to issue protective orders....” Score, 2003 SD 17, ¶ 20 (*citing* S.D.C.L. § 15-6-26(c)). Specifically, S.D.C.L. § 15-6-26(c), provides the Court discretion to protect a party from “...annoyance, embarrassment, oppression, or undue burden or expense....” In effect, the statute provides the Court discretion to enter “any order which justice requires” to protect a party from annoyance, oppression, undue burden or expense. Score, 2003 SD 17, at ¶ 21.

## ARGUMENT

Prior to addressing the Interrogatories and Request for Production that Swiftel seeks to compel further answers, it is beneficial to look at an interrogatory that Swiftel has ignored in this motion, both by failing to move to compel a further answer and ignoring in its analysis of why it claims it needs additional information. (A copy of the entire set of discovery requests Alltel

made to Swiftel is attached as **Exhibit A** for the Commission's reference.<sup>1</sup> Interrogatory 16 was ignored by Swiftel. This interrogatory provides as follows:

Interrogatory 16: Do you contend that Swiftel is required to transport calls to any Point in the MTA selected by Alltel? Explain your answers.

Objection: *This interrogatory calls for a legal conclusions.*

Response: Without waiving the foregoing objection and its rights related hereto, Alltel is only asking for arrangements whereby it would accept the delivery of traffic from Swiftel within the LATA at Alltel's switch in Sioux Falls and is willing to negotiate alternative traffic exchange scenarios pursuant to a bonafide request from Swiftel. (Emphasis added)

As is plain by the response, Alltel has affirmatively informed Swiftel it is not seeking to have Swiftel carry traffic to Alltel beyond its switch in Sioux Falls. The importance of this admission revolves around the subsequent arguments Swiftel makes in its Motion to Compel. Given that Swiftel's suspension is centered around transport issues, one would think it would be important for Swiftel to acknowledge to this Commission that it understands that the transport issues according to Alltel are very limited, essentially, the cost to take traffic to Sioux Falls. Swiftel ignores Alltel's responses to Interrogatory 16 because Swiftel understands Alltel's willing agreement to restrict any transport obligations to Swiftel to carrying traffic to Sioux Falls eliminates any reasonable argument for this Motion to Compel by letting Swiftel know what its exact transport obligation would be in relation to Alltel.

Swiftel did not address the interrogatories in numerical order. Rather, Swiftel grouped various interrogatories. For ease of convenience, Alltel will use the same grouping Swiftel used.

**INTERROGATORIES 3, 7, 8 and 9:**

**Interrogatory 3:** Identify each Telecommunications Carrier you have exchanged Telecommunications Traffic with, either directly or indirectly, during the past 12 months in South Dakota.

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<sup>1</sup> Exhibit DR 8-1 was not included as it had confidential information.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to discovery of admissible evidence. Alltel's traffic exchange with other carriers has no bearing on the merit of Petitioner claims in this proceeding.

Response: Without waiving the foregoing objection, Alltel believes it exchanges telecommunications traffic with all carriers operating in South Dakota.

**Interrogatory 7:** Identify all interconnection arrangements Alltel has entered into 1) in South Dakota and 2) in MTA 12.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. Alltel's interconnect relationship with other carriers is not relevant to Petitioner's suspension request.

Response: Without waiving the foregoing objection, Alltel has interconnection agreements with most incumbent local exchange carriers in Minnesota, North Dakota and South Dakota. Such agreements are on file with the respective state commissions and are a matter of public record.

**Interrogatory 8:** Identify all carriers by name and by NPA-NXX from whom you port numbers and to whom you port numbers 1) in MTA 12; and 2) in the Swiftel service area.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. Alltel's number porting with other carriers is not relevant to the circumstances associated with Petitioner's suspension request.

Response: Without waiving the foregoing objection, Alltel does not maintain the information as requested. See attached Alltel Response - DR 8 for identification of carriers by name with whom Alltel has processed number ports in 2008 in the states of Minnesota, North Dakota, and South Dakota.

**Interrogatory 9:** Identify any switch not owned by Alltel that is directly or indirectly interconnected with any of your switches. Include the owner, status (affiliate or specified third parties, including local exchange Carriers, interexchange Carriers, and CMRS carriers), model, physical location, and date of interconnection for each such switch.

Response: Alltel switches are connected to the Public Switched Telephone Network and hence, Alltel switches are directly or indirectly connected with all switches identified in the Local Exchange Routing Guide.

**ARGUMENT ON INTERROGATORIES 3, 7, 8 and 9:**

In its Motion to Compel, Swiftel does not provide any citation to any legal authority explaining why it is entitled to discovery in this situation. It does argue that it needs the information contained in these interrogatories because "the number of carriers to whom Swiftel

may be required to transport traffic in a location to which Swiftel may be required to transport traffic will affect the cost to transport.” Swiftel goes on to claim since in response to a question regarding what Alltel believed Swiftel’s obligation to transport generally was answered that Swiftel had an obligation to transport to a location in the LATA, Alltel must provide all this other information.

The obvious defect in this analysis is Swiftel’s intentional failure to acknowledge Alltel’s willingness to simply have Swiftel carry traffic to its switch in Sioux Falls. What carriers Alltel interconnects with or exchanges traffic with has no bearing on Swiftel providing traffic to Alltel’s switch. The information requested can provide no relevant information on third parties, nor would it provide any agreement on behalf of third parties so a determination can be made where to transport traffic.

As an additional argument, Swiftel claims that Alltel could make it transport the traffic to any point of interconnection in South Dakota that Alltel may have with another carrier. Again, Swiftel conveniently ignores Interrogatory 16 where Alltel has already stated its only desire in regards to Swiftel is to have Swiftel bring the traffic to Alltel’s Sioux Falls switch. Essentially, Swiftel asserts an untrue statement in support of its Motion to Compel argument, all to try to get the Commission to compel responses to overly broad and irrelevant questions asserted. Given the concession Alltel made that it only desires Swiftel to carry traffic to its switch in Sioux Falls, Alltel should not be punished by making Alltel produce irrelevant information, nor should Swiftel misrepresent the concession made by Alltel.<sup>2</sup>

#### **INTERROGATORY 4:**

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<sup>2</sup> In a telephone call held on July 9, 2008, between Swiftel’s counsel, Alltel’s counsel and Ron Williams, on behalf of Alltel, Mr. Williams confirmed Alltel’s position that it was only seeking to have Swiftel carry traffic to Alltel’s switch in Sioux Falls. Swiftel’s counsel, during that call, said that concession in regards to the discovery may “resolve all issues.” Swiftel’s Motion to Compel followed two days later.



**Interrogatory 4:** Identify all Alltel switches, interoffice transport routes, intercompany transmission facilities, points of interconnection with other carriers, and call record data collection points in the state of South Dakota and in MTA 12. Identify capacity and inservice plant associated with each switch, transport transmission equipment, route, and/or facility.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to discovery of admissible evidence.

Response: Without waiving the foregoing objection, see Response to Interrogatory 17.

**ARGUMENT ON INTERROGATORY 4:**

It is important to note other interrogatories that were responded to are not referenced or disclosed by Swiftel. Interrogatory 17, which is referenced in the Answer to Interrogatory 4, provides Alltel switch locations and identifies switches in Sioux Falls and Rapid City.

Additionally, in response to discovery request 13, Alltel provided routing information for all Alltel numbers in South Dakota. In its response to request for production 12, Alltel has provided a traffic routing diagram for calls that are routed to Swiftel. This diagram shows how switches are interconnected and how calls are routed to Swiftel. Thus, sufficient information has been provided in response to this interrogatory and additional information is overly broad in relation to the claims presented in this case.

**INTERROGATORIES 10, 23 and 24:**

**Interrogatory 10:** Quantify the volume of traffic (by MOU) sent to Swiftel for termination for the last 12 months and for year end 2000-2007, inclusive, by the following traffic types:

- a) IntraMTA Wireless
- b) InterMTA Wireless
- c) through the Qwest tandem.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. The traffic that Alltel sends to Petitioner has no relevance to Petitioner requests in this proceeding.

Response: Without waiving the foregoing objection, Alltel does not maintain the information as requested. Further, Petitioner has or should have the information requested, the volume of traffic it receives from Alltel.

**Interrogatory 23:** Identify the 1) interMTA MOU and 2) the intraMTA MOU that Alltel terminated to Swiftel by month for the years 2004 through 2008.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. The traffic that Alltel sends to Petitioner has no relevance to Petitioner request in this proceeding.

Response: Without waiving the foregoing objection, Alltel has not captured and does not otherwise maintain information as requested. Additionally, Petitioner has or should have the information requested.

**Interrogatory 24:** Identify any Alltel traffic on trunk groups between the Qwest tandem and a rural ILEC end office and terminating to the rural ILEC end office by month and for each year from 2002 through 2008.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. The traffic that Alltel sends to rural ILECs has no relevance to Petitioner request in this proceeding.

Response: Without waiving the foregoing objection, see response to Interrogatory 23.

**ARGUMENT ON INTERROGATORIES 10, 23 and 24:**

To reiterate what has been argued previously, this is not an arbitration, this is a suspension where the focus is on Swiftel. The relief that Swiftel requests has to do with Swiftel's obligation to carry traffic to areas outside of its service area. The information requested in the interrogatories above, has no bearing on the requested relief.

Additionally, as noted by Alltel in its responses, Alltel does not capture or collect the majority of this information so does not have it at its disposal. Thus, the responses are valid.

Swiftel argues that it needs this information to determine "the relative merits and efficiency of direct versus indirect connections." Motion to Compel, page 7. Thus, it would appear that Swiftel is making some claim that an analysis of the efficiencies of Alltel's network must occur for Swiftel to make a determination of what is efficient for its system. Systems are different and the principals of indirect connect are not alien to Swiftel. This material amounts at

best to a fishing expedition or simple harassment. Therefore, the Motion to Compel should be denied.

**INTERROGATORIES 11, 25 and 26:**

**Interrogatory 11:** For each of the three most recent years for which the data is available, 1) provide total revenues; 2) provide the average revenue per month per customer.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to discovery of admissible evidence. Alltel's financial performance has no relevance to Petitioner's suspension request.

**Interrogatory 25:** Provide Alltel's net income generated on an annual basis for the years 2000 through 2007, inclusive. Provide Alltel's net income generated on an annual basis in South Dakota for the years 2000 through 2007.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to discovery of admissible evidence. Alltel's financial performance has no relevance to the Petitioner's suspension request.

**Interrogatory 26:** Provide Alltel's return on investment for the years 2004 through 2007.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. Alltel's financial performance is irrelevant to Petitioner's suspension request.

**ARGUMENT ON INTERROGATORIES 11, 25 and 26:**

Swiftel states that it needs "information on Alltel's financial performance because such information bears on the impact of the grant of Swiftel's petition will have on Alltel and on other competing carriers in the area Swiftel serves." This Commission has recognized that the economic standard as focused under SDCL § 49-31-80 and 47 U.S.C. 251(f)(2) "should be applied to assess the burdensomeness of the requirement on both the [RLEC] consumer and the company [requesting relief]." TC04-047 at Findings of Fact 45. See also Findings of Fact 47. Financial performance of Alltel or other companies is not relevant or admissible in this case. Thus, this financial information is irrelevant and not likely to lead to admissible evidence.

Moreover, Alltel does not see how its financial information somehow provides Swiftel the crystal ball to make a determination of how other competing carriers may be impacted by the suspension. Clearly, there are various other carriers of different sizes whose financials could range widely. If Swiftel is suggesting to this Commission Swiftel must prove that its suspension will have no impact on any other carrier, Swiftel might very well be setting an impossible standard to meet.

**INTERROGATORY 13:**

**Interrogatory 13:** Identify all rate centers for which Alltel has populated the LERG to rate calls to one rate center and route calls to a different rate center 1) in South Dakota and 2) in the US. Explain the circumstances under which Alltel populates the LERG to rate calls to one rate center and route calls to a different rate center.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. Without waiving the foregoing objections, see attached Alltel.

Response: DR 13 for detail of 605-NXXs. Similar rating and routing assignment patterns occur throughout Alltel's service area. Alltel's general policy with respect to the establishment of separate rating and routing points is to achieve efficient interconnection and traffic routing conditions in a manner consistent with the Central Office Code Administration Guidelines (COAG).

**ARGUMENT ON INTERROGATORY 13:**

It should be noted that Swiftel is asking this question for the entire Alltel operation, a nationwide question. The information is not relevant on a nationwide basis or even on a regional basis as, again, how competitors may operate is not a consideration when determining whether an RLEC is entitled to a suspension.

Moreover, Alltel did provide its Routing Guide for its numbers in South Dakota. A copy is attached as **Exhibit DR 13** of Alltel's Response. If there is a routing question, this information, in conjunction with the response to Request for Production 12, a diagram showing how all calls are routed from Alltel to Swiftel, and response to Interrogatory 20, which provided

an explanation of assigning of calls and routing numbers for Brookings, clearly answers this question.

**INTERROGATORY 14:**

**Interrogatory 14:** State whether Alltel allows its subscribers to select a long distance carrier other than Alltel.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. Alltel's customer service offerings have no relevance to Petitioner's suspension request and is not likely to lead to the discovery of admissible evidence.

**ARGUMENT ON INTERROGATORY 14:**

As explained above, the offerings of Alltel's services are not relevant nor likely to lead to admissible evidence in a suspension proceeding.

**INTERROGATORY 19:**

**Interrogatory 19:** Describe how Alltel assigns telephone numbers to subscribers. Does Alltel only assign telephone numbers to subscribers in the rate center in which they reside? In the rate center that corresponds to the subscriber's billing address?

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. Alltel's customer service offerings, including number assignment methods, have no relevance to Petitioner's suspension request.

Response: Without waiving the foregoing objection, Alltel assigns numbers to subscribers based on the subscriber's community of interest.

**ARGUMENT ON INTERROGATORY 19:**

The interrogatory has been answered and, thus, the Motion to Compel should not be granted. Furthermore, the reasons Swiftel gives for why this must be compelled, that it needs to know where it has to transport numbers, again simply ignores Alltel's concession that it is only asking Swiftel to carry traffic to Sioux Falls. Thus, even if a number would be somehow routed to a place that a customer does not live, Swiftel's transport obligations will be the same in both circumstances, take an Alltel call to Sioux Falls. The Motion to Compel therefore should not be granted.

**INTERROGATORY 21:**

**Interrogatory 21:** Does Alltel contend that it is required to pay access charges on all calls from its wireless subscribers that originate in MTA 12 and outside of Swiftel's service area and terminate to a Swiftel ILEC subscriber? If no, describe the calls that would not be subject to access charges.

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence. Alltel originated traffic sent to Petitioner is irrelevant to Petitioner request in this proceeding.

**ARGUMENT ON INTERROGATORY 21:**

Swiftel contends it needs a response to Interrogatory 21 to make a determination of “toll dialing parity.” However, toll dialing parity does not appear to be an issue in this case and has no relevance in these proceedings. As mentioned in the objection, the obligations the FCC places on Alltel are not relevant as to Swiftel’s request for suspension.

**INTERROGATORIES 36, 37 and 38:**

**Interrogatory 36:** What is the price 1) per subscriber and 2) per share that Verizon will pay to Alltel under the recently announced merger agreement?

Objection: This interrogatory seeks information that is irrelevant and not likely to lead to discovery of admissible evidence.

**Interrogatory 37:** What is the anticipated MOU that a combined Alltel-Verizon will terminate to Swiftel? What is the anticipated MOU that Swiftel will terminate to a combined Alltel/Verizon?

Objection: This interrogatory seeks information that is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the objection, Alltel does not know the volume traffic that is exchanged between Verizon and Swiftel See also Objection and

Response: to Interrogatories 10 and 34.

**Interrogatory 38:** As a result of the recently announced merger between Alltel and Verizon, is it anticipated that either Verizon or Alltel will divest certain 1) frequencies or 2) properties in South Dakota? If yes, identify the frequencies and properties that will be divested or which you expect will be divested.

Objection: This interrogatory seeks information that is not relevant or likely to lead to the discovery of admissible evidence. Without waiving the foregoing objection, Alltel does not presently know the answer.

**ARGUMENT ON INTERROGATORIES 36, 37 and 38:**

The purchase agreement between Alltel and Verizon has absolutely no bearing on this proceeding. It is not relevant nor likely to lead to admissible evidence. As to Interrogatory 38, Alltel has answered Interrogatory 38. It does not know what the final determination by the various regulatory agencies in regards divestures will be. The financial information or projections or what might occur should the buy-out be completed has no bearing on this proceeding.

**Admission 1:** Admit that when Swiftel hands traffic off to SDN which ultimately terminates to Alltel, Swiftel and Alltel are indirectly interconnected. If you deny this statement, explain the basis for your denial.

Response: Admitted as to the traffic originated by Swiftel, except to the extent that SDN may be determined to be an affiliate of Swiftel or dedicated facilities are used.

**ARGUMENT ON ADMISSION 1:**

The Admission was admitted. There is no interrogatory asking to explain the qualified admission. Further, the explanation exists in the very admission. Alltel does not understand what supposedly is being compelled here given Alltel's response. Alltel does not believe anything else needs to be compelled.

**Request for Production 9:** Please provide copies of all your annual ETC certification filings made with the South Dakota Public Utilities Commission (Commission) since January 1, 2003, including any responses to or correspondence with Commission Staff regarding the filings or information included in such filings.

Objection: This request seeks information that is irrelevant and not likely to lead to the discovery of admissible evidence.

**ARGUMENT ON REQUEST FOR PRODUCTION 9:**

Again, as noted above, financial impact on Alltel or other competitors is not a relevant consideration. This Commission has decided that issue in a previous proceeding where Swiftel sought suspension. Therefore, it is inappropriate to produce this information in this proceeding.

**Request for Production 12:** Please provide a copy of a trunk diagram for traffic routed between Alltel and Petitioner showing how all traffic types are routed between Alltel and Petitioner.

Response: Alltel does not know how all traffic is routed from Petitioner; however as Petitioner routes such traffic, Petitioner should have this information. Also see attached - Alltel Response RFP12.

**ARGUMENT ON REQUEST FOR PRODUCTION 12:**

A diagram was produced. This was a diagram Alltel had. Alltel does not have a diagram that answers the question seeking to be compelled. Alltel does not have an obligation to create diagrams or documents to respond to Requests for Production. Therefore, the Motion to Compel should be denied.

**Request for Production 14:** Provide a copy of the recently announced merger agreement between Verizon and Alltel.

Objection: This request is seeking information that is irrelevant and not likely to lead to discovery of admissible evidence and is requesting information that is confidential, proprietary and competitively sensitive and may not be released in accordance with the terms of a confidentiality agreement between the parties to the transaction.

**ARGUMENT ON REQUEST FOR PRODUCTION 14:**

Alltel reasserts its arguments as set forth in Response to Motion to Compel Interrogatories 36, 37 and 38. Any purchase documents between Verizon and Alltel have no bearing on this proceeding. The question of suspension is a focus on the party requesting suspension, not a focus on every possible competitor.



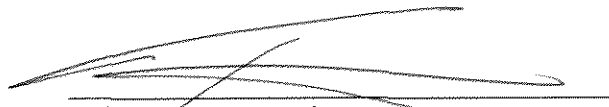
**CONCLUSION**

As noted throughout, the focus of a suspension under 47 U.S.C. §251(f)(2) is on the party requesting the suspension. The mere fact that a party intervenes does not open up the intervenor's inner workings at the whim of the party seeking suspension. The appropriate focus, as previously noted by this Commission in another suspension involving Swiftel, is on Swiftel and its consumers. The economic aspect of competitors is not relevant nor admissible in these proceedings. Therefore, Alltel requests the Commission deny the Motion to Compel in its entirety.

Dated this 24th day of July, 2008.

ATTORNEYS FOR ALLTEL

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## CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of July, 2008, a true and correct copy of **Alltel Communication, Inc.'s Response to Swiftel Communications' Motion to Compel** was sent electronically to:

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