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October 24, 2008

E-Filing
Patricia Van Gerpen
SDPUC
500 East Capitol
Pierre SD 57501

RE: Alltel Alliance Arbitration TC07-112 through TC07-116
GPNA File No. 05925.0042

Dear Ms. Van Gerpen:

Enclosed for filing in the above-entitled matter, please find Alltel's Reply Brief in Support of Its Position on Interconnection Terms. This brief does not contain any confidential information. By copy of same, counsel have been served.

If you have any questions, please call me. Thank you.

Sincerely,

Talbot J. Wieczorek

TJW:klw
Enclosure
c: Clients
Service List
Roger Oldenkamp

BEFORE THE STATE OF SOUTH DAKOTA

PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF BERESFORD MUNICIPAL TELEPHONE COMPANY, KENNEBEC TELEPHONE COMPANY, MCCOOK COOPERATIVE TELEPHONE COMPANY, SANTEL COMMUNICATIONS COOPERATIVE, INC., AND WEST RIVER COOPERATIVE TELEPHONE COMPANY FOR ARBITRATION PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996 TO RESOLVE ISSUES RELATING TO AN INTERCONNECTION AGREEMENT WITH ALLTEL COMMUNICATIONS, LLC.	)	Docket Nos. TC 07-112 TC 07-113 TC 07-114 TC 07-115 TC 07-116

ALLTEL COMMUNICATIONS, LLC'S REPLY BRIEF IN SUPPORT OF ITS POSITIONS ON INTERCONNECTION TERMS

COMES NOW, the above-named Alltel Communications, LLC , formerly know as Alltel Communications, Inc., by and through its attorney of record, Talbot J. Wieczorek of Gunderson, Palmer, Nelson & Ashmore, LLP, and hereby submits this Reply Brief in support of its positions in the above-referenced arbitrations.

PRELIMINARY STATEMENT

As Alltel did in its initial brief, Alltel Communications, LLC, will be referred to as "Alltel." McCook Cooperative Telephone Company will be referred to as "McCook." Beresford Municipal Telephone Company will be referred to as "Beresford." Kennebec Telephone Company will be referred to as "Kennebec." Santel Communications Cooperative, Inc. will be referred to as "Santel." West River Cooperative Telephone Company, Inc. will be referred to as "West River." When referring to all five incumbent local exchange carriers or the remaining companies contesting an issue, they will be referred to as "RLECs."

Citations made to prefiled testimony will be cited by providing the name of the witness followed by the initials "PF", identification of the testimony round (direct or rebuttal) and a page and line number to the testimony. Citations to the Hearing Transcript will be made by the designation of "HT" followed by a page and line number. The majority of citations to the RLECs' brief will be McCook's brief as the briefs of McCook and Santel are identical and all issues were still disputed as to those companies. With the exception of the Beresford interMTA factor, it appears that all RLECs' arguments on specific issues are essentially identical.

As in Alltel's original brief, all facts and law that applied to the issue will be addressed under the issue as presented below.

ISSUES PRESENTED

I. Is the reciprocal compensation rate for intraMTA traffic proposed by each RLEC appropriate under 47 U.S.C. § 252(d)(2) and the regulations adopted by the Federal Communications Commission?

A. Legal Analysis

The RLECs' argument that the Commission should simply adopt their reciprocal compensation calculations because they claim their rates are based on an efficient network and that the FCC rules, specifically the TELRIC rules, are simply a general guideline has to be rejected as not grounded in law or fact. Rather, the Commission should adopt Alltel's suggested reciprocal compensation rates or require the study be corrected, as detailed in Alltel's brief, and the RLECs' cost model rerun so as to be consistent with FCC rules.

Essentially, the RLECs claim that under the FCC rules the Commission has the discretion to adopt the RLECs' rates because they are based on an "efficient" network. However, in defining "efficient," the RLECs' argument incorrectly disassociates costs and the demand the

RLEC alleged efficient networks have been designed to satisfy. Case law and the FCC rules provide otherwise.

Under federal law, the definition of "efficient network configuration" includes not just the use of efficient technology but also "the lowest cost network configuration." 47 C.F.R. § 51.505(b)(1) (emphasis added). Thus, when reviewing how a reciprocal compensation rate is calculated, an efficient lowest cost network configuration does not exist if a network outstrips its utility. *See* MCI WorldCom Communications v. Bell South Telecommunications, Inc. 446 F.3d 1164, 1174 -1175 (11th Cir. 2006). In the MCI case, a dispute existed over calculations of TELRIC elements in an unbundled elements case.[1] Being an unbundled network elements case, the question of local loops arose. The Eleventh Circuit rejected the analysis performed by the incumbent because the incumbent had proposed a network with excessive capacity beyond what would be demanded throughout the life of the network. "A scenario that contains loops that an incumbent local carrier is neither 'likely to provide' to a competitive local carrier nor 'likely to use' in offering its own service artificially inflates this average cost by including units for which there is no demand. That result runs counter to the pro-competitive purpose of the Telecommunications Act." Id. at 1175. Thus, a network configuration that may be technically efficient cannot be used in a forward-looking cost analysis if the network would provide for capacity that will never be used as it is not the lowest cost configuration as required under 47 C.F.R. § 51.505(b)(1). It is apparent, that the network configuration promoted by the RLECs in this case is inappropriate as the RLECs cannot account for consumption of that network by demand over the network's proposed life.

[1] The parties agree that that TELRIC analysis used for unbundled elements or UNE cases is the same cost analysis completed for reciprocal compensation in these interconnection proceedings. HT 96, lns 2-7.

The RLECs' argument is that this Commission can treat the TELRIC rules simply as a general guide. However, the RLECs' cost study directly deviates from and violates the FCC requirements. The RLECs point to no authority that the FCC rules constitute mere guidelines. Rather, the FCC rules are explicit and control in state Commission actions. Verizon Wireless v. Sahr, 457 F.Supp. 940, 950 (D. SD 2006). Thus, the RLECs' argument that the TELRIC rules are just general guideline to be ignored or deviated from is unsupported fabrication.

The RLECs attack Mr. Conwell's testimony claiming he advocated the Commission adopt a higher standard than required under federal law. This is not so. Mr. Conwell's testimony and Alltel's pleadings merely demonstrated that the Commission must apply FCC standards to each and every cost allocation issue raised in this proceeding. The burden of proof clearly rests on the RLECs. The RLECs' own witnesses agreed to this conclusion. *See* HT 80, lns 4-6. The obligation to illustrate the cost study uses the lowest cost efficient network is clearly set out under 47 C.F.R. § 51.505(e). That rule states the incumbent LEC must prove its rates do not exceed the forward-looking economic cost per unit and this burden must be met by "using a cost study that complies with the methodology set forth in this section and Section 51.511."

Contrary to the RLECs' argument that Alltel claimed this requires the RLEC to look at every possible network, Alltel simply showed that the RLECs' studies contain clear deviations from the TELRIC standards; deviations that violate the FCC rules. These include a transport system vastly oversized for demand, an over allocation of the cost of that oversized network to voice traffic relative to demand, errors in how the minutes of use were calculated, inclusion of inappropriate cost of network components, the inclusion of non-usage-sensitive components and components not used in the termination of calls. When a study violates federal law, the shortfalls

and mistakes must rightfully be examined and the incumbent should not complain when the errors are criticized. The FCC itself held that an incumbent LEC's cost study "must explain with specificity why and how specific functions are necessary to provide the network elements and how the associated costs are developed." Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, 11 FCC Rcd 15,499 at 15850, ¶ 691. Showing the Commission how the RLECs failed to meet their burden in this situation does not amount to heightening the standard as the RLECs now complain. Rather, Alltel's testimony and examination pointed out the conflict between the RLECs' own witnesses and the flaws in the cost studies that clearly demonstrate the RLECs did not meet the burdens placed on them by law.

B. The Reciprocal Compensation Termination Rate Component Proposed by Each of the RLECs Is Overstated As It Includes Non Traffic-Sensitive Costs And Getting Started Costs.

In its initial brief, Alltel identified, in detail, the rule violations of the cost studies conducted by the RLECs and specifically pointed out various areas where the RLECs' cost studies violated federal law. The RLECs' briefs advocate to respond in very general terms that their rates should be adopted while disregarding these specific errors within their studies.

The RLECs essentially argued with switching costs, all the costs of the switch are recoverable because Ms. Vanicek testified: l) the switch is part of the total network, and since the "T" in TELRICs stands for "total," the RLEC can recover the entire network cost and; 2) that because the switch has some theoretical usage restriction (which will never be exhausted by RLECs own projected demand), it automatically becomes usage-sensitive no matter what the demand, the components function, or size of the switch. *See* RLECs' Briefs, pgs 12-13; Vanicek's Rebuttal, pg 6; HT 88 and 107.

The RLECs' analysis simply ignores all authority. Vanicek acknowledged that she had not read the FCC Common Carrier Bureau Analysis in the 2003 Virginia Arbitration Cost Order, 18 FCC Rcd 17722 that excluded getting started switch costs from recovery. HT 89, lns 16-25. Moreover, Ms. Vanicek acknowledged she had not read the Eighth Circuit Court of Appeals decision of Ace Telephone Association v. Koppendrayer, 433 F.3d 876 (8th Cir. 2005) that agreed that switches were not usage-sensitive and, therefore, would not be part of the reciprocal compensation rate. HT 89. Thus, Ms. Vanicek's sweeping statement that switches must be included was not based on relevant, controlling law.

To accept Vanicek's argument at face value, "total means the entire network," the entire network becomes usage-sensitive and an entire line of cases and FCC rules become be irrelevant. The very definition of total element long run incremental cost (TELRIC) would be irrelevant. The FCC however requires "incremental cost." 47 C.F.R. § 51.505(b). Yet, Ms. Vanicek's definition that total means the entire network would render meaningless the term "incremental cost," an integral part of the FCC rules. Her testimony that 'total' includes the entire network is also contradicted by Mr. Weber who acknowledged that components of the switch are not usage-sensitive. HT 207, 209-210, 212-213.

The RLECs also claim that some how, Alltel receives a "free ride" if it does not have to pay for the entire switch and the entire network. This is not true. Rather, what the RLECs are asking is that Alltel be required to subsidize their networks in violation of the Telecommunications Act. Congress specifically prescribed an incumbent carrier from billing costs to other carriers unless those other carriers used a usage-sensitive element and, thus, caused a cost to the incumbent. 47 U.S.C. § 252(d)(2)(A)(ii)(An incumbent may only recover "the additional costs of terminating such calls.") Alltel's obligation under the rules is to pay for the

incremental costs it causes, not the entire network. Alltel can not be obligated to pay for more of the RLECs' network than Alltel uses, or to subsidize the RLECs.

The switching costs the RLECs labeled as "common," include items that are clearly nonusage-sensitive. The RLECs' witness, Mr. Weber, admitted this for several items. For example, the Web Self-Care System is not used in termination and therefore, should not be included. Because the Web Self-Care is not used in terminating the call, Alltel is not causing any incremental cost of the Web Self-Care. He also admitted the same for Web Self-Care software, CALEA and other items. HT 203, 209.

Furthermore, the mere labeling of some of the switch items as "common" does not make them a common cost includable under 47 C.F.R. § 51.505(c). That section allows a reasonable allocation of forward-looking common costs. The common costs that are includable are corporate costs that are general and shared by all elements or services of the ILEC. *See* Eklund PF Direct 8, lns 13-20. *See also* HT 235 and HT235. Allowed common costs are for such items as "executive, legal, human resources, finance, and the general administrative functions." HT 427, lns 7-12. The RLECs attempt to argue that common costs under this rule include switch elements they have listed as common. That is not true. Common switch costs are getting started costs, which are costs to be excluded from the derivation of termination costs pursuant to FCC rules. Even Eklund's testimony did not claim that those switch elements constituted common costs. Eklund PF Direct 8, lns 13-20; HT 235. As recognized at the hearing, what constitutes common costs, the corporate costs, was undisputed. "Even the RLECs cost studies do not include switching in common." HT 427, lns 15-19.

The Common Carrier Bureau of the FCC confirmed that getting started costs of a switch, which includes "the cost of a central processor, memory, maintenance, administrative, test and

spare equipment, and other common equipment" are not usage-sensitive nor recoverable. Virginia Arbitration Cost Order, 18 FCC Rcd 17722, 17871, FN 988. The reasoning is straightforward. Base switching components are necessary to do business for the incumbent (i.e., to provide 'dial tone' to their customers). The incumbent does not have to size the base any bigger to handle the extra calls coming from other carriers throughout the component's life. The base switch used by the RLECs can handle these additional carrier calls without extra costs. The base switch is not usage-sensitive. The incumbent incurs no incremental cost whether Alltel delivers during the year one-minute over the switch or 10,000 minutes over the switch. As Alltel's calls do not cause additional costs, Congress, the Common Carrier Bureau of the FCC and the Eighth Circuit of Appeals all agree such costs cannot be included in any reciprocal compensation rate.

Petitioners argue that this conclusion is some how avoided based on the fact that 47 C.F.R. § 51.507(c) apportions costs of shared facilities among users and this includes usage-sensitive charges. *See* RLECs' Brief, pg 11. However, this is an incomplete reading of 47 C.F.R. § 51.507(c). That section provides that "cost of shared facilities may be apportioned either through usage-sensitive charges or capacity based flat-rate charges, if the State Commission finds that such rates reasonably reflect the costs imposed by the various users" (emphasis added). This section does not say RLECs may receive usage-sensitive charges for nonusage-sensitive shared facilities. Rather, if the RLEC cannot prove that the additional calls cause the costs, the facilities are not includable in usage-sensitive charges but instead the costs are recovered through flat rate charges already imposed by the RLEC on RLEC customers. The RLECs attempt to dodge the key usage-sensitivity question and conclude any use causes an incremental cost and, therefore, is recoverable. Federal law does not agree. If there is no usage-

sensitivity, no cost is includable. The FCC rules permit recovery of usage-sensitive costs when they occur. Reciprocal compensation rates are based only on these incremental costs.

C. The RLECs' transport calculations must be rejected as the RLECs failed to properly perform the forward-looking analysis and used a methodology that grossly overstated the actual costs of transport for voice traffic.

Regarding the calculation of transport cost, the RLECs' claim incorrectly that their projected minutes of use was proper and that the path method, wherein they count every DS-0 used to carry a voice traffic as one and every DS-1 as one, is the preferred method. Alltel demonstrated the flaws of this inequitable path method. Regarding the cost studies use of an inefficient sized network, the RLECs' briefs are silent.

Alltel's point regarding the minutes of use issue involving transport arose because of the inefficiencies in the RLECs' assumed utilization of interoffice transport circuits. Alltel advocated beginning with the minimal efficiency standards of the FCC as the basis for adjusting utilization assumptions in the RLEC cost model. *See* Alltel's initial brief at pg 14. Alltel's two major issues regarding the transport component concern the RLECs' inability to reconcile transport capacity with demand, and the RLECs' use of an inequitable method to allocate the transport network costs to voice traffic.

The capacity issue concerns the amount of forward-looking transport demand projected by the RLECs when compared to the capacity of the OC-192 network. The RLECs own witnesses clearly are in disagreement as to what demand exists today. Eklund's cost study claimed forward-looking demand of approximately $1/20^{th}$ of the supposed cost efficient OC-192 network that RLEC's witness Weber endorses and which is used as the basis for RLEC costs.

Further, Eklund stated that this forward-looking transport was actually 2006 transport demand[2] that he now projects will remain stagnant for the next ten years because broadband has increased, but voice traffic has decreased. HT 260, lns 18-20. This OC-192 transport network is not designed for a voice network. It is designed with broadband multi-media capabilities in mind. The impropriety of this size of transport network based on the alleged forward-looking demand has been recognized by the Eleventh Circuit. A reasonable telecommunications company would not build a network that neither it nor other carriers are going to use. *See* MCI WorldCom, 446 F.3d at 1174 -1175. The FCC rules do not consider a network efficient if it contains costs to build a network that neither the incumbent carrier nor anyone else is likely to use. Id. Yet, that is exactly what the RLECs argue in their brief and testimony. The RLECs' claim that the OC-192 ring structure is efficient fails under the Eleventh Circuit analysis. If the RLEC can only show forward-looking demand less than $1/10^{th}$ of the size of this network, it can hardly be considered the lowest cost network. The RLECs oversized forward-looking transport network artificially inflates the average cost. The RLECs have created a dichotomy that fails FCC rules. Either

a) The RLEC network is overbuilt and therefore inefficient, or

b) The RLEC network is built to handle much more demand than is created by voice traffic but that demand is not included in the RLEC cost derivation

The RLEC brief fails to reconcile these disparities. Therefore, the RLECs network utilized in the RLEC cost study cannot be considered efficient and the RLEC position on transport cost allocation must be rejected.

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[2] The use of the 2006 demand is Mr. Eklund attempt to make "a reasonable projection" of future demand as required under 46 C.F.R. §51.511(a). The mere fact that Eklund has failed to even attempt to project future demand makes the cost studies illegitimate.

If Eklund's forward-looking demand is a reliable assessment, to be cost efficient under the FCC rules the network must be significantly smaller and, therefore, cost less. If Mr. Weber's testimony is to be believed that these carriers already have demand exceeding or approaching an OC-48 network level, then Eklund's cost studies are inaccurate as they do not take into consideration current demand, let alone forward-looking or future demand. While Alltel had initially raised the concern that Eklund was using a transport system that was unjustifiable for his forward-looking demand projection, the most damning evidence of Eklund's cost studies regarding transport is Weber's testimony where he admits demand is currently much higher on the RLECs networks than the demand Eklund used to calculate costs. Again, the RLECs' do not even attempt to address this in their brief.

Rather than address these deficiencies in their study, the RLECs' briefs attack Alltel for proposing a DS-1 equivalency test in calculating transport demand as being a more realistic approach to determine network usage. The RLECs argue for a "path" method. However, the "path" method is based on an assumption akin to the belief that an eight lane interstate highway is equivalent in capacity to a single lane dirt road. Under the "path" method, the RLECs would count every DS-0 as one path, even though as everyone has agreed, there are 24 DS-0s to a single DS-1. As to every DS-1, they would simply count that as one. The RLECs advocate this analysis even though DS-0s are only introduced into the switch at the DS-1 level. HT 399, ln 10. Because the DS-0s are only introduced at the DS-1 level, there is no extra work in handling the DS-0 or connecting a DS-0. Twenty-four DS-0s are hooked up when you hook up the DS-1 for voice traffic. Two DS-1s could be side-by-side on the switch. One could carry voice traffic and contain 24 DS-0s. The other could contain 24 DS-0s but carry dedicated voice traffic, transiting or be used for a broadband application. Under the RLECs' analysis, the DS-1 carrying voice

traffic counts for 24 paths. The dedicated DS-1 that is transporting other traffic counts as one path. This is the analysis the RLECs claim is reasonable in allocating costs to voice traffic.

Perhaps realizing the inequality of this path analysis, the RLECs spend little time discussing the path method, but rather attack the DS-1 equivalency method as over allocating costs to DS-1s and DS-3s. *See* RLECs' brief, pgs 17-18.[3] Ignored by the RLECs in its entire argument though is that Alltel agreed that the Commission could use the DS-3 to DS-1 ratio of 7, as suggested by the RLECs' prefiled testimony.

Alltel demonstrated the argument by Eklund that there should be a ratio of 2.70 DS-0 to DS-1 should be rejected because, by his own admission, Eklund used signaling links. *See* Eklund Rebuttal, pg 20. Under cross-examination, Eklund acknowledged that he did not understand that signaling links were a special circuit and were not voice traffic DS-0s. HT 268, lns 13-25. Therefore, as all parties agreed that there are 24 DS-0s to DS-1s and DS-0s for voice traffic are introduced onto the switch in a DS-1, the correct ratio for one DS-1 is 24 DS-0s. Based on these ratios, transport demand equivalency should be set and transport demand calculated. Once transport demand is calculated, that portion allocated to voice traffic should be divided by minutes of use as adjusted.

Finally, in addressing reciprocal compensation rates, the RLECs imply that the Commission must simply accept the RLECs' rates and forego an examination on how they arrived at these rates. Under the FCC rules it would be inappropriate for the Commission to simply accept the RLECs' rates. Clearly, the testimony of the RLECs' own witness reflects that the RLECs' numbers are not accurate in regards to the existing transport demands. The RLECs' own witnesses testified that they have included costs that were not associated with terminating

[3] As explained in Alltel's initial brief, the whole argument over the disparity between DS-1s and DS-3s is somewhat of a red herring as from the information provided by the RLECs, only Midstate appears to have DS-3s within its network. Alltel Initial Brief, FN 11.

calls. The RLECs included costs that are not usage-sensitive and yet used those costs to develop a usage-sensitive rate. The Commission is required to examine the actual calculations contained in the FLEC study. The FLEC study should have been placed into the record, as required under 47 C.F.R. § 51.505(e)(2). The Commission must make these adjustments. These adjustments are necessary and proper to reflect the appropriate costs for reciprocal compensation.

D. The Staff brief Should be disregarded.

The Staff's brief misconstrues some of the evidence, fails to account for the conflicting testimony of the RLECs' witnesses, and fails to apply the rules of law appropriate to an arbitration under the Act. The Staff's brief correctly states that Courts review factual findings of this Commission under an arbitrary and capricious standard, but fails to acknowledge that the arbitrary and capricious standard only applies to findings of fact. Ace Telephone, 432 F.3d at 878. If the Commission's decision contains any interpretation of federal law, the interpretation receives no deference from the Courts. Id. Furthermore, a finding that the network as set forth in the cost study is cost efficient and only usage-sensitive components have been considered would also result in a finding that Commission's decision arbitrary and capricious. The RLECs' engineer testified that there are components that have been included in the cost analysis that are not used in the termination of traffic and the RLECs current demand already exceeds the forward-looking demand used in the cost studies.

Moreover, the Staff's analysis states that the RLECs' rates should be adopted so that "Alltel pay an amount that reflects the necessary incremental profit and operating margin to allow Petitioners to acquire forward-looking capital and place themselves in a position to reinvest in the future of South Dakota telecommunications." Such a standard violates the FCC rules. The rules do not guarantee profit margins to incumbent carriers. Rather, to ensure

competition, federal law looks to cost causation in setting reciprocal compensation rates. The rules look to reasonable allocations of incremental cost, not to guaranteeing profits. In fact, under 47 C.F.R. § 51.505(d), the FCC rules list factors that may not be considered. Amongst these factors are lost opportunities and costs and revenues to subsidize other services. Guaranteeing profits to the RLECs essentially creates revenues to subsidize other services and replaces lost opportunity costs due to competition. Furthermore, by definition the cost analysis captures only incremental costs of an element. 47 C.F.R. § 51.505(b). The focus is on the cost caused, not cost plus profit.

II. What Are The Appropriate InterMTA Use Factors To Be Applied To Determine Non IntraMTA Traffic Exchanged Between The Parties.

The only evidence in the record on interMTA factors that is consistent with FCC rules is the study conducted by Alltel based on the 'point of interconnection' or 'POI' method. That is the analysis that should be used to determine the interMTA factor in this proceeding. This analysis (1) most correctly follows the cost causer aspect of the exchange of this type of traffic; (2) avoids bizarre aberrations such as occurs with a MTA line going through the middle of Beresford; and, (3) it is a low cost study. The RLECs argue for an SS7 analysis that is inconsistent with FCC guidelines that uses NPA NXX numbers as a default for MTA location and advocates factors derived from what appears to have been a very expensive study completed four years ago regarding the Western Wireless network, a network configuration that no longer exists within Alltel. Because of the dated context of the proposed SS7 analysis, if the Commission should consider it, the factors must be updated to reflect today's network. Further, no matter which approach is used, the factor should be a net factor.

The RLECs' briefs attack the POI method claiming it does not provide a realistic representation of the location for the origin or a termination of a call. The RLECs do not dispute

that the obligation of Alltel is to carry that call to that POI and from the POI, Alltel pays a reciprocal compensation rate for those calls that do not fall under an interMTA factor. While the RLECs complain that one does not get an accurate location of the origination point of the call with a POI, the POI method does provide a factor based on a cost causer approach.

The RLECs desire an interMTA factor as high as possible so the RLECs can then collect premium intrastate or interstate access rates. The reason the RLECs want to collect those access rates, especially intrastate access, is that the rates are significantly higher than the reciprocal compensation rate and provide the RLECs a significant subsidy as the RLECs actually incur less cost than when handling a standard long distance call. An intrastate interMTA rate charged for calls delivered to a same POI as intraMTA calls creates a windfall for the RLECs since the cost considered when setting the intrastate tariff rates are costs for a POI and transport that may be hundreds of miles away from where Alltel actually delivers such traffic to an RLEC.

In an attempt to support a high interMTA rate, the RLECs use a four year old SS7 study methodology conducted on the Western Wireless network. There is a practicality issue with the SS7 study. Obviously, these SS7 studies must be difficult to do and must be fairly expensive, otherwise, one would have expected the RLECs to update their study using Alltel's network as opposed to a four year old study of the Western Wireless network. Alternatively, perhaps there was a sampling completed to update the study and the RLECs realized the factor would be significantly smaller and the RLECs chose not to update the study. Regardless of why it was utilized, the study proposed is not reflective of the existing network.

The RLECs brief does not examine the fact that the age of their studies makes the SS7 analysis illegitimate. They simply argue because they have had difficulty dealing with wireless carriers previously, this SS7 study from 2004 should be used. However, this cannot explain why

the RLECs would not update their own SS7 study. The SS7 study only uses data that can be captured by the RLEC. Therefore, the RLECs could have easily updated this study without the help of Alltel. The way the study is actually designed is that there is no other party that needs to assist in providing information. Again, the question becomes why did they not update the study?

Moreover, while the RLECs argue that the POI methodology does not accurately reflect the origin of the call, the RLECs ignore the fact that neither does the SS7 study. In fact, the SS7 study does not even comply with the definitions of interMTA that the RLECs propose for the agreement.

Not only do the RLECs want to "up" the factors as high as possible so they can collect this windfall (e.g., 12.5 cents per minute which is multiples of there own cost analysis in this case and more than twelve times the corrected costs demonstrated by Alltel), the RLECs refuse to net out any factor to account for interMTA calls being delivered back to Alltel. McCook Brief, pg 26. However, Williams' testimony in this regard has not been rebutted. Williams testified that a substantial portion of the RLECs originated traffic is delivered to Alltel as local. *See* Williams PF Rebuttal 8 and Rebuttal Exhibit RW-6. While the traffic is delivered as local, it may not be for local delivery. A call to someone who is outside of their calling area may be delivered in another MTA and Alltel will incur significant cost to transport that call, received from an RLEC, to its destination.

Further, even the RLECs' witness, Mr. Thompson, admitted that traffic originated by Beresford is interMTA traffic for every call going to a Beresford number. HT 332 -333. Because the Beresford switch is on one side of the MTA that goes through the middle of Beresford and the Alltel cell tower is on the other, every time someone in Beresford on a land line calls someone on a wireless that may be two houses down, under the RLECs' definition, this

completes an interMTA call. *See* HT 483, lns 10-17. Thus, for the RLECs to simply dismiss interMTA calls from land lines to wireless is simply contrary to the facts and refuted by the record.

From a cost causer standpoint, the POI methodology is reasonable in its ease of calculations, data is equally accessible to both parties, and in ensuring the proper carrier is responsible for cost of delivering the call to the point of hand-off with the receiving carrier. While no analysis is perfect in this situation, whether it be the POI analysis, a SS7 analysis or some other type of analysis, the POI analysis avoids extension costs for in-depth studies that must capture data over a period of time and avoids the situation where carriers might be driven to locate towers to avoid high interMTA factors. Beresford is a perfect example of this situation. Under the RLECs' definitions of interMTA traffic, Alltel and any other carrier that wishes to serve Beresford, would be motivated to locate towers on the same side of the road as the Beresford switch, even if the tower location is not as efficient in delivering calls or providing coverage to the area. To do otherwise would subject the carrier to more than twelve times the cost of the reciprocal compensation rate while making no change on how the traffic is actually delivered.

Regarding the appropriate rate for interMTA, the RLECs' short two-paragraph argument does not provide any substantial legal argument. It ignores the fact that the intrastate rate is a consolidated rate arrived at using a traffic delivery pattern through a central access network, which is a route not used in these situations. Why a rate that assumes traffic delivered to the RLEC in Sioux Falls should be used is not explained by the RLECs. There is not an equitable reason to use the intrastate rate.

As Alltel's brief has suggested, the interstate rate components calculations can actually be made based on the route and delivery method used making it a more appropriate rate. Finally, the RLECs' tariffs do not subject this type of traffic to the intrastate rate. As such, it is inappropriate to use that rate for traffic delivered under these circumstances.

III. The Commission Should Allow Alltel To Bill Reciprocal Compensation Using Factor Billing And Adopt Alltel's Traffic Factor As It Is Uncontested.

The RLECs' exclusive argument against a factor billing approach is that it some how imposes a burden on the RLECs. This is a misstatement of the record and is blatantly false.

As explained in Alltel's brief, the RLECs proposed language puts Alltel in a position where it is not going to be able to collect for all calls delivered by the RLECs because Alltel cannot obtain sufficient information for all calls delivered by the RLECs to bill for them. The RLECs assert that the fact that they will have to have the appropriate records to bill Alltel some how imposes a significant burden upon the RLECs. The RLECs go as far as to invoke class warfare to assert because Alltel is a big company ("a billion dollar company" - McCook Brief, pg 29) and the RLECs are small companies, factor billing should not be allowed.

Factor billing is appropriate. There is no burden on the RLECs to establish Alltel's factor as Alltel has already done so and has submitted those numbers to this Commission. *See* Williams PF Direct McCook RW-4 and Santel RW-4. The factors are undisputed because the RLECs checked the factors for accuracy and decided it would not propose different factors. HT 41, lns 17-20. If in checking the factors, another more favorable number to the RLECs would have resulted, common sense says the RLECs would have proposed that number as a factor.

Thus, no burden falls on the RLECs in this situation. Alltel has already developed the factors and the RLECs do not contest those factors. The complaint that the RLECs will have to capture and gather information is really no complaint as the RLECs already do that, not just for

Alltel, but for essentially all calls delivered to the RLECs. Historically, the RLECs have allowed traffic factors. In fact, the RLECs are doing that for other wireless carriers under existing interconnection agreements where traffic factors are allowed. *See* HT 467, lns 8-12. The traffic factor is a reasonable approach to ensure Alltel receives compensation for calls originated by the RLECs. No undue burden results.

IV. Alltel's Proposed Definition Of InterMTA and IntraMTA Traffic Should Be Accepted As The Definition Proposed By The RLECs Is Contrary To The Traffic Studies Performed And Would Lead to Future Disputes.[4]

The RLECs' brief simply argues that they want their definition because that is the definition they want. As examined in Alltel's initial brief, Alltel provides the basic definitions of interMTA and IntraMTA traffic. It is troubling that the RLECs insist on using a definition that their own traffic study does not follow. Alltel's definitions should be acceptable given the other pending issues in front of the Commission.

V. Alltel's Proposed Locations For POI Locations Should Be Adopted And Placed In Appendix B As Alltel Should Be Allowed To Directly Interconnect With The RLEC At Any Point The RLECs Have a Meet Point With Another Carrier.[5]

It appears from the RLECs' brief, the RLECs do not dispute Alltel's proposed technically feasible locations on the RLEC network for interconnection. These technically feasible interconnect points should be listed on Appendix B to clarify POI locations for one-way direct connect and the following language should be added to Appendix B to clarify POI locations for direct interconnect for Alltel originated traffic:

1. Any RLEC meet point with SDN;
2. Any RLEC meet point with Qwest tandem switch;
3. Any RLEC end office; and
4. Any mutually agreed upon location.

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[4] This issue is Issue 6 as set forth and discussed by the parties at the hearing. Issues 4 and 5 had been resolved as to all parties.

[5] This issue was presented at the hearing as Issue 7.

Regarding POI locations for RLECs' originated traffic, Appendix B should have the following locations designated:

1. Alltel meet point with SDN tandem switch;
2. Alltel meet point with Qwest tandem switch;
3. Alltel MSC; and
4. Any mutually agreed upon location.

See Williams PF Direct 19, lns 8-20. The RLECs' brief correctly states that Alltel has dropped its request that one party can unilaterally demand a two-way direct interconnection. As the technically feasible interconnection points to Appendix B only addresses one-way connections, the technically feasible points do not change based on Alltel dropping the two-way issue.

CONCLUSION

Alltel requests the Commission make the following findings:

As to Issue 1, the rate for reciprocal compensation, the Commission set reciprocal compensation rates in the amount set forth in Alltel's initial brief, Section I (D) or, designate traffic be exchanged as bill and keep, or make the determinations of the necessary changes to the study and have the study rerun under the supervision of Alltel.

As to Issue 2, interMTA factors and rates, a POI methodology should be used and the interMTA factor set at zero. Should the Commission desire to use the SS7 methodology, the RLECs' methodology must be adjusted, as set forth by Alltel under section II.B of its initial brief, resulting in interMTA factors of Beresford 9%, Kennebec 2.1%, McCook 2.1%, Santel 3.4% and West River 3.4%. If the Commission determines an interMTA rate needs to be established, only interstate rate components should be used.

As to Issue 3, traffic factor, Alltel's traffic factor and traffic factor language should be adopted to ensure the RLECs have to bear some costs for the calls delivered to Alltel.

As to Issue 6, definition of interMTA and IntraMTA traffic, Alltel's language should be adopted as being the correct definition of this type of traffic.

Finally, as to Issue 7, given the RLECs agree that Alltel can connect anywhere on their network at a technically feasible point, the locations for interconnection should include the RLECs' meet points with Qwest and SDN.

Dated this **24th** day of October, 2008.

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CERTIFICATE OF SERVICE

I hereby certify that on the **24th** day of October, 2008, a true and correct copy of **Alltel Communication, Inc.'s Reply Brief in Support of Its position,** was sent electronically to:

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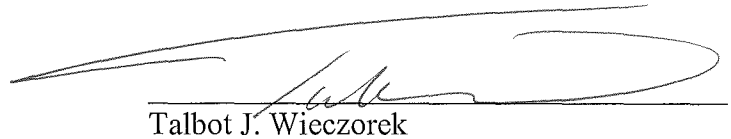

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