

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION  
OF 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, INC.

Docket No.  
TC07-116

**REBUTTAL TESTIMONY OF DAN DAVIS  
ON BEHALF OF WEST RIVER COOPERATIVE TELEPHONE COMPANY**

**Introduction**

**Q. Please state your name, employer and business address.**

A. My name is Dan Davis. I am employed with Consortia Consulting (“Consortia”), formerly known as TELEC Consulting Resources Inc. My business address is 233 South 13<sup>th</sup> Street, Suite 1225, Lincoln, Nebraska, 68508.

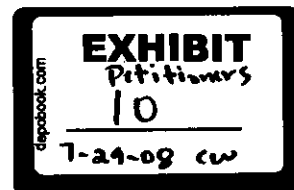
**Q. Did you file direct testimony on behalf of West River Cooperative Telephone Company in this proceeding?**

A. Yes. I filed direct testimony on behalf of West River Cooperative Telephone Company (“West River”) on March 24, 2008.

**Q. Have you read the direct testimony of Mr. Williams filed on behalf of Alltel?**

A. Yes, I have.

**Q. What is the purpose of your rebuttal testimony?**



1 A. The purpose of my rebuttal testimony is to respond to the direct testimony of Mr.  
2 Williams in regard to issues 2 through 7 that he discussed in his direct testimony.

3 **Rebuttal Testimony-Issue 2 – Issue 7**

4 **Issue 2: What is the appropriate InterMTA use factor to be applied to interMTA traffic**  
5 **exchanged between the parties?**

6  
7 **Q. Mr. Williams states that the FCC Rules make no clear statement when, or if, a**  
8 **CMRS provider and a LEC should be responsible to each other for compensation**  
9 **for interMTA traffic or how such compensation should be calculated.<sup>1</sup> Where in the**  
10 **FCC's First Report and Order does the FCC clearly articulate the financial**  
11 **obligations between a CMRS provider and a LEC?**

12  
13 A. The FCC clearly states the financial obligations between a CMRS provider and a LEC in  
14 paragraph 1044 its First Report and Order. Paragraph 1044 of the First Report and Order  
15 states the following:

16 CMRS customers may travel from location to location during the course of a  
17 single call, which could make it difficult to determine the applicable transport and  
18 termination rate or access charge. We recognize that, using current technology, it  
19 may be difficult for CMRS providers to determine, in real time, which cell site a  
20 mobile customer is connected to, let alone the customer's specific geographic  
21 location. This could complicate the computation of traffic flows and the  
22 applicability of transport and termination rates, given that in certain cases, the  
23 geographic locations of the calling party and the called party determine whether a  
24 particular call should be compensated under transport and termination rates  
25 established by one state or another, or under interstate or intrastate access charges.  
26 We conclude, however, that it is not necessary for incumbent LECs and CMRS  
27 providers to be able to ascertain geographic locations when determining the rating  
28 for any particular call at the moment the call is connected. We conclude that  
29 parties may calculate overall compensation amounts by extrapolating from traffic  
30 studies and samples. For administrative convenience, the location of the initial  
31 cell site when a call begins shall be used as the determinant of the geographic  
32 location of the mobile customer. As an alternative, LECs and CMRS providers  
33 can use the point of interconnection between the two carriers at the beginning of  
34 the call to determine the location of the mobile caller or called party.

35  
36 **Q. Mr. Williams states that typically the rates applicable to interMTA traffic are**  
37 **negotiated.<sup>2</sup> In the contract that Alltel has or had with 29 South Dakota Rural**

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<sup>1</sup> See Mr. Williams Direct Testimony, Page 4, Lines 12-14.

<sup>2</sup> See Mr. Williams Direct Testimony, Page 5, Line 5.

1           **ILECs, including West River, what rate was negotiated to be applied to interMTA**  
2           **traffic?**

3  
4       A.     According to Section 5.1.1 of the aforementioned agreement, the Telephone Company's  
5           access charges applied to the termination of InterMTA traffic. And according to Section  
6           2.1 of that agreement, InterMTA Traffic was subject to West River's Interstate or  
7           Intrastate access charges.

8       **Q.     Mr. Williams lists his third reason why "negotiated estimates" are used for the**  
9           **exchanged traffic that is compensable as interMTA traffic "as a particular matter,**  
10           **there is no difference in what a terminating carrier needs to do to complete a call**  
11           **whether it is interMTA or intraMTA."<sup>3</sup> Do you agree with his third reason?**

12  
13      A.     No, I do not. The FCC has determined that there are different standards for rate  
14           development for terminating interMTA calls versus terminating intraMTA calls and that  
15           is what is being followed by West River.

16      **Q.     Mr. Williams states that a factor to delineate what percentage of Traffic is**  
17           **InterMTA is required because no practical methodology has been developed that**  
18           **can accurately measure whether a call is an intraMTA call or an interMTA call.<sup>4</sup>**  
19           **What methods are available to develop a factor to delineate what percentage of the**  
20           **Traffic is InterMTA?**

21  
22      A.     Mr. Thompson addresses the "SS7" method and the "CDR" method in his testimony.<sup>5</sup>

23  
24      **Q.     Mr. Williams states that "the Petitioner has not attempted to study or account for**  
25           **the level of interMTA traffic that is sent from their network to the Alltel network."<sup>6</sup>**  
26           **Did you identify the deficiencies of Alltel's claim that the InterMTA factor should**  
27           **reflect the net amount of InterMTA traffic exchanged between the parties in your**  
28           **direct testimony?**

29  
30      A.     Yes I did. I addressed the deficiencies of Alltel's claim on pages 7-8 of my Direct  
31           Testimony.

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<sup>3</sup> See Mr. Williams Direct Testimony, Page 5, Lines 16-17.

<sup>4</sup> See Mr. Williams Direct Testimony, Page 7, Lines 3-10.

<sup>5</sup> See Mr. Thompson Direct Testimony, Pages 8-12.

<sup>6</sup> See Mr. Williams Direct Testimony, Page 7, Line 23-24.

1 **Q. Mr. Williams asserts that West River's proposed interconnection agreement does**  
2 **not provide that Alltel be paid compensation for the termination of interMTA**  
3 **Traffic originated by West River that terminates on and uses Alltel's network.<sup>7</sup> Do**  
4 **you agree with Mr. Williams?**  
5

6 A. No, I do not. As I described on pages 7-8 in my Direct Testimony, West River's  
7 termination of InterMTA Traffic to Alltel would be limited to some of the Traffic that is  
8 routed over a direct connection from West River to Alltel. In that limited situation,  
9 Section 2.1 of West River's proposed interconnection agreement clearly provides that  
10 InterMTA Traffic is that which is "originated by the End User of one Party and  
11 terminated to the End User of the other Party." What West River's Agreement does not  
12 set forth are the applicable rates that Alltel would charge for terminating InterMTA  
13 Traffic. Since Alltel does not have an access tariff, West River could not propose using  
14 an Alltel access rate. Section 7.2.4 of West River's proposed Interconnection Agreement  
15 sets forth the access rates that West River would charge Alltel for terminating InterMTA  
16 Traffic, as those rates established in West River's Interstate and Intrastate access tariffs.  
17 Alltel, in its proposed Interconnection Agreement, did not propose any language for  
18 InterMTA Traffic in the other direction (terminating to Alltel). In fact, the only change in  
19 this section proposed by Alltel are the rates that West River proposes to charge Alltel for  
20 terminating InterMTA Traffic. Alltel had ample opportunity to propose language for the  
21 rates it would charge West River but did not.

22 **Q. Do you believe the POI method as advocated by Alltel<sup>8</sup> provides a reasonable**  
23 **approximation of the location of the CMRS subscriber when a CMRS-wireline call**  
24 **is originated?**  
25

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<sup>7</sup> See Mr. Williams Direct Testimony, Page 8, Lines 16-19.

<sup>8</sup> See Mr. Williams Direct Testimony, Page 10, Lines 13-19.

1 A. No I do not. As I described on pages 11-12 of my Direct Testimony, the POI method  
2 suffers from a major deficiency in that it assumes that the only place that a wireless  
3 subscriber can make or receive calls is at the point of interconnection and disregards the  
4 more likely scenario, that such calls were not placed or received at the point of  
5 interconnection.

6 **Q. The FCC, in its First Report and Order, stated that the determination of whether a**  
7 **call is an interMTA call or an intraMTA call is based upon the parties' locations at**  
8 **the beginning of the call.<sup>9</sup> Does Mr. Williams provide any explanation as to how the**  
9 **POI method provides an estimation of the parties' locations at the beginning of a**  
10 **call?**

11  
12 A. No he does not.

13 **Q. In your opinion, why would a CMRS carrier advocate the use of the POI method**  
14 **when it does not provide a reasonable estimation of the parties' locations at the**  
15 **beginning of a call?**

16  
17 A. Because it will more than likely result in an InterMTA factor of zero.

18  
19 **Q. In the study developed by Alltel that used the POI method, what is the resulting**  
20 **InterMTA factor?**

21  
22 A. Zero.

23  
24 **Q. Mr. Williams states that West River's intrastate access rates and terms are not**  
25 **appropriate for this application.<sup>10</sup> He also states that it is undisputed that the FCC**  
26 **has asserted authority over all traffic to and from a CMRS carrier.<sup>11</sup> Do you agree**  
27 **with Mr. Williams' assertion?**

28  
29 A. No I do not. It appears that Mr. Williams is asserting that this Commission has no  
30 jurisdiction over intrastate intercarrier compensation rates for state traffic originating and  
31 terminating between West River and Alltel. If such an assertion were true, we would not

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<sup>9</sup> See the First Report and Order, at para 1043.

<sup>10</sup> See Mr. Williams Direct Testimony, Page 10, Lines 1-2.

<sup>11</sup> See Mr. Williams Direct Testimony, Page 10, Lines 3-4.

1 be in front of this Commission in this proceeding reviewing the rates West River  
2 proposes for transport and termination. Clearly the Act, pursuant to 47 U.S.C. § 252(c)  
3 and 47 U.S.C. § 252(d) gives this Commission the authority over such rates. As it relates  
4 to state access rates, Mr. Williams' claim that the FCC has asserted authority over all  
5 traffic to and from a CMRS carrier is incorrect and misplaced. Although Mr. Williams  
6 does not provide a citation to back-up his claim, I believe the authority that Mr. Williams  
7 is referring to is in regard to the rates a CMRS carrier charges its end users,<sup>12</sup> not over  
8 state intercarrier compensation rates, including transport and termination and state access  
9 rates developed by West River.

10 **Q. Did the previous agreement between West River and Alltel allow for InterMTA**  
11 **Traffic to be billed at West River's Intrastate access rate?**

12  
13 A. Yes, it did. According to Section 2.1 of that agreement, InterMTA Traffic was billed at  
14 West River's interstate and intrastate access charges.

15 **Q. Does Mr. Williams support his claim that access charges that are applied to**  
16 **interMTA traffic need to have been developed utilizing the methodologies provided**  
17 **by FCC rules?**<sup>13</sup>

18  
19 A. No, he does not. Mr. Williams does not cite any FCC rule to support his claim that  
20 intrastate access rates should be developed in accordance with FCC rules and not state  
21 access rate development rules.

22 **Q. Do you agree with Mr. Williams that the FCC failed to specify how compensation**  
23 **should be paid for interMTA traffic and therefore Alltel should be allowed to**  
24 **specify that West River's interstate access tariffs be applied to all interMTA**  
25 **traffic?**<sup>14</sup>  
26

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<sup>12</sup> See 47 U.S.C. 332(C)(3)(A).

<sup>13</sup> See Mr. Williams Direct Testimony, Page 10, Lines 7-9.

<sup>14</sup> See Mr. Williams Direct Testimony, Page 10, Lines 6-7 and Lines 9-11.

1 A. No, I do not. The FCC, in its First Report and Order, stated that “the geographical  
2 locations of the calling and the called party determine whether a particular call should be  
3 compensated under the transport and termination rates established by one state or  
4 another, or under interstate or intrastate access charges.”<sup>15</sup> Thus, it is clear that the  
5 jurisdiction of the call determines the appropriate tariff under which to bill the carrier  
6 terminating traffic onto West River’s network. Therefore, contrary to Alltel’s assertion,  
7 intrastate access charges are properly applied to intrastate interMTA traffic terminated by  
8 Alltel to West River’s network and interstate access charges are properly applied to  
9 interstate interMTA traffic terminated by Alltel to West River’s network.

10 **Q. Mr. Williams claims that there are limitations with respect to the applicability of**  
11 **West River’s Intrastate Access Tariff.<sup>16</sup> Mr. Williams states that West River’s rate**  
12 **presumes the delivery of traffic will occur at the SDN tandem and Alltel does not**  
13 **route its traffic via SDN.<sup>17</sup> Mr. Williams also states that West River’s tariff includes**  
14 **a rate element for carrier common line.<sup>18</sup> Are these statements relevant in terms of**  
15 **how West River should develop its state access rates?**

16  
17 A. No, they are not. West River has developed its access rates in accordance with the  
18 Commission’s rules on access rate development. The transport rate element is developed  
19 according to ARSD 20:10:29:16. The transport rate element is calculated by dividing the  
20 transport revenue requirement by the annual transport minutes of use. The transmission  
21 facilities from the Qwest route and the SDN route are included in the revenue  
22 requirement and the minutes on both routes are included in the annual transport minutes

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<sup>15</sup> See the First Report and Order, at para. 1044. The FCC recognized that it may be difficult to determine in real time a customer’s specific location and concluded that parties may calculate overall compensation amounts by extrapolating from traffic studies and samples.

<sup>16</sup> See Mr. Williams Direct Testimony, Page 10, Lines 12-13.

<sup>17</sup> See Mr. Williams Direct Testimony, Page 10, Lines 17-20.

<sup>18</sup> See Mr. Williams Direct Testimony, Page 11, Line 1.

1 of use. It appears that Alltel's statement regarding the route that it terminates its traffic to  
2 West River would indicate that it advocates the use of a route specific rate. Since ARSD  
3 20:10:29:16 does not address route specific rates or allow for distant sensitive charges, I  
4 don't believe Mr. Williams' observation regarding the use of the Qwest route for Alltel  
5 terminating traffic is relevant in the determination of West River's transport access rate.  
6 With regard to Mr. Williams' complaint that West River's state access rate includes a rate  
7 element for carrier common line, the inclusion of such a rate is consistent with ARSD  
8 20:10:29:03.

9 **Q. Has the Commission approved a switched access rate for West River?**

10  
11 A. Yes, the switched access rate was approved in docket TC06-079.<sup>19</sup> I believe that this is  
12 the appropriate rate to charge Alltel for its terminating intrastate interMTA traffic.

13 **Issue 3: What is the appropriate manner by which the minutes of use of IntraMTA Traffic**  
14 **terminated by the parties, one to the other, should be calculated and billed?**

15  
16 **Q. Mr. Williams states that Alltel lacks a system that can adequately capture traffic**  
17 **records.<sup>20</sup> Does West River have a system that captures traffic records?**

18  
19 A. West River does not capture terminating wireless minutes at its switch locations for  
20 traffic that is indirectly routed. On indirect connections, West River purchases records  
21 from the transiting provider, in this case Qwest, which captures the minutes terminating  
22 to West River from each of the wireless carriers. West River uses the records it has  
23 purchased from Qwest to bill the wireless carriers.

24 **Q. Could Alltel purchase terminating records from the transiting provider?**  
25

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<sup>19</sup> See In the Matter of the Establishment of Switched Access Rates for the Local Exchange Carriers Association, Order Approving Settlement Stipulation and Order Approving Tariff Revisions, TC06-079, December 28, 2006.

<sup>20</sup> See Mr. Williams Direct Testimony, Page 11, Lines 21-22.



1 A. Yes, it could. Purchasing records from the transiting provider should alleviate any  
2 concern that Alltel may have regarding its internal systems.

3 **Q. Do you agree with Mr. Williams' assertion that West River's proposed billing**  
4 **method would cause Alltel to forfeit reciprocal compensation?**<sup>21</sup>  
5

6 A. No, I do not. West River's proposal would simply require Alltel to be responsible for its  
7 own billing instead of relying on West River.

8 **Q. According to Mr. Williams, wireless carriers do not have monthly detailed records**  
9 **that allow them to determine how much compensable intraMTA traffic they receive**  
10 **from ILECs.<sup>22</sup> Could wireless carriers purchase records from the transit providers**  
11 **that would allow them to determine how much intraMTA traffic they receive from**  
12 **ILECs?**

13  
14 A. Yes, they could.

15  
16 **Q. Mr. Williams states that Alltel conducted studies on March 21, 2008 for traffic**  
17 **exchanged between the parties in January 2008.<sup>23</sup> According to Mr. Williams, this**  
18 **study was conducted to determine IntraMTA traffic ratios. Do you have any**  
19 **observations regarding Alltel's analysis?**  
20

21 A. Yes, I do. The studies were conducted on the day prior to the filing of direct testimony.  
22 Given the short time frame in which the study was conducted and the results compiled, I  
23 believe the results could be prone to errors. Additionally, given that Alltel did not  
24 conduct the study until after the second round of discovery, West River was not afforded  
25 the opportunity to conduct an analysis of Alltel's study.

26 **Q. Mr. Williams states that West River has not produced any study to indicate that**  
27 **Alltel's study is not representative of the traffic exchanged between the parties.<sup>24</sup>**  
28 **Given that it is West River's position that the parties not bill based upon a fixed**  
29 **traffic ratio, was there any reason for West River to present an analysis advocating**  
30 **the use of a fixed traffic ratio?**  
31

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<sup>21</sup> See Mr. Williams Direct Testimony, Page 12, Line 1.

<sup>22</sup> See Mr. Williams Direct Testimony, Page 13, Lines 23-25.

<sup>23</sup> See Mr. Williams Direct Testimony, Page 14, Lines 9-10.

<sup>24</sup> See Mr. Williams Direct Testimony, Page 14, Line 24.

1 A. No, there was not.

2

3 **Q. Did West River review the results submitted by Alltel to determine the accuracy of**  
4 **such analysis?**

5

6 A. Yes, it did. West River reviewed the records that it received from Qwest for Alltel's  
7 terminating traffic for approximately the same billing period as Alltel's study period.  
8 West River's records showed 154,011 minutes terminating to West River from Alltel,  
9 which is approximately 1.5 times more than what Alltel's study showed as terminating to  
10 West River. West River did not receive data to study traffic that it had terminated to  
11 Alltel.

12 **Q. What is West River's suggested resolution to this issue?**

13

14 A. Given that Alltel's study results differed significantly from the billing records that West  
15 River obtained from Qwest, West River believes it will be much more accurate for each  
16 party to purchase records from the third party transit provider rather than relying on the  
17 results of a one-day study. In addition, since there is no language in the Act or FCC rules  
18 that obligates West River to perform billing on behalf of its competitors, West River  
19 recommends that each party be responsible for its own billing and collection functions.  
20 Each party should bill the other party to the agreement based upon billing records it has  
21 obtained from a third party transit provider. Alltel is capable of obtaining billing records  
22 from the third party transit provider in order to bill West River. West River therefore  
23 recommends that the Commission reject the language for Section 7.2.3 as proposed by  
24 Alltel and instead insert language into Section 7.2.2 of the agreement which would direct  
25 Alltel to obtain terminating records generated by a Third Party Provider.

26 **Issue 4: What is the obligation of the parties with respect to dialing parity?**

27

- 1 **Q. Mr. Williams claims that the language used in the draft agreement attached as West**  
2 **River's Exhibit A is inconsistent with Alltel's proposed language.<sup>25</sup> Isn't the**  
3 **language in West River's draft agreement in Sections 4.3 and 4.4 exactly the same as**  
4 **the language in the agreement submitted by Alltel in Sections 4.3 and 4.4?**  
5
- 6 A. Yes, it is. This fact is supported by Alltel's Response to the Petition for Arbitration  
7 whereby Alltel states that it accepts West River's proposed language in Section 4.3 of  
8 Exhibit A to the Petition.<sup>26</sup>
- 9 **Q. Mr. Williams states that Alltel has proposed Appendix B to specify dialing parity**  
10 **obligations.<sup>27</sup> Have you reviewed Appendix B as submitted by Alltel and does it**  
11 **specify dialing parity obligations?**  
12
- 13 A. I have reviewed Appendix B as submitted by Alltel. The subject of Appendix B is  
14 "Direct Interconnection POI Locations and Telephone Company Local Calling Area."  
15 There is no information contained in Appendix B as submitted by Alltel so I am uncertain  
16 how it specifies dialing parity obligations as claimed by Mr. Williams.
- 17 **Q. Mr. Williams, by way of a question, states that West River must provide dialing**  
18 **parity and charge its end users the same rates for calls to an Alltel NPA/NXX as**  
19 **calls to a landline NPA/NXX in the same rate center.<sup>28</sup> Does the dialing parity rule**  
20 **establish end-user billing requirements?**  
21
- 22 A. No, it does not. I agree with Mr. Williams that "this code section on its face precludes  
23 dialing distinctions based upon the identity of the telecommunications service  
24 provider."<sup>29</sup> However, this code section does not address end-user billing.
- 25 **Q. Does this arbitration proceeding involve end-user billing issues?**  
26
- 27 A. No, it does not.

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<sup>25</sup> See Mr. Williams Direct Testimony, Page 15, Lines 21-23.

<sup>26</sup> See Alltel's Response, at para. 19.

<sup>27</sup> See Mr. Williams Direct Testimony, Page 16, Line 14.

<sup>28</sup> See Mr. Williams Direct Testimony, Page 16, Lines 15-17.

<sup>29</sup> See Mr. Williams Direct Testimony, Page 17 Line 1-2.

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**Q. Do the contracts as submitted by Alltel and West River both contain language recognizing that such agreements do not affect rate levels or rate structures that either party charges its end-users?**

A. Yes they do. The agreement as submitted by West River and the agreement as submitted by Alltel states the following:

Except as otherwise expressly provided for herein, this Agreement has no effect on the definition of End User services that either Party offers to its End User customers, the services either Party chooses to offer to its respective End User customers, the rate levels or rate structures that either Party charges its End Users for services, or the manner in which either Party provisions or routes the services either Party provides to its respective End User customer.

**Q. Mr. Williams cites 47 C.F.R. § 51.207 and states that it is apparent that under existing law, the Petitioner is clearly required to provide dialing parity to Alltel.<sup>30</sup> What does West River's Petition state with respect to this rule?**

A. West River's Petition states that "Telco proposes to fulfill its responsibilities in conformance with 47 U.S.C. § 51.207."<sup>31</sup> Reference to U.S.C. was in error and was meant to state "West River's Petition states that "Telco proposes to fulfill its responsibilities in conformance with 47 C.F.R. § 51.207."

**Q. How do you recommend the Commission act on this issue?**

A. Mr. Williams states that it is essential that the agreement reflect the legal obligations of the parties and Alltel has proposed language in Sections 4.3 and 4.4 requiring West River to provide Alltel local dialing parity.<sup>32</sup> Since the language in Sections 4.3 and 4.4 of the Agreements submitted by Alltel and West River are exactly the same, I recommend the Commission adopt such language for Sections 4.3 and 4.4.

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<sup>30</sup> See Mr. Williams Direct Testimony, Page 16 Line 21-22.

<sup>31</sup> See West River's Petition for Arbitration, at para. 16.

<sup>32</sup> See Mr. Williams Direct Testimony, Page 16 Lines 11-13.

1 **Issue 5: What is the appropriate effective date and term of the agreement?**

2  
3 **Q. Is it your understanding that this issue has been resolved?**

4  
5 A. Yes, it is. West River proposed that the Agreement be deemed effective as of January 1,  
6 2007, and remain in full force and effect for a period of three years after January 1, 2007.  
7 Alltel, in its Response to the Petition, states that it accepts the effective date and term of  
8 the Agreement as proposed by the Petitioner.<sup>33</sup> Mr. Williams, in his testimony confirms  
9 the January 1, 2007 effective date and the three year term and states that “when a final  
10 conformed agreement is approved by the Commission, the Parties will be obligated to  
11 reconcile and true-up compensation due based upon the final agreement terms as  
12 compared to any billing and payment transaction associated with services provided since  
13 January 1, 2007.”<sup>34</sup> Therefore, I understand that this issue has been resolved.

14 **ADDITIONAL ISSUES RAISED BY ALLTEL IN THE RESPONSE**

15 **Issue 6: What is the appropriate definition of IntraMTA and InterMTA Traffic?**

16  
17 **Q. Do you agree with Mr. Williams claim that it is West River’s desire to incorporate**  
18 **language into the interconnection agreement that defines traffic in a manner**  
19 **inconsistent with the Parties ability to measure traffic?**<sup>35</sup>

20  
21 A. No, I do not. It is not West River’s desire or intent to incorporate language into the  
22 agreement in a manner that is inconsistent with the Parties ability to measure traffic. It is  
23 West River’s intention to incorporate language into the agreement that is consistent with  
24 the FCC’s First Report and Order as a way to determine what proportion of Traffic is  
25 IntraMTA and what proportion of Traffic is InterMTA. The FCC recognized that since

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<sup>33</sup> See Alltel’s Response, at para. 20.

<sup>34</sup> See Mr. Williams Direct Testimony, Page 17 Lines 18-23.

<sup>35</sup> See Mr. Williams Direct Testimony, Page 18 Lines 2-3.

1 CMRS customers may travel from location to location during the course of a single call,  
2 it would be difficult to determine the applicable transport and termination rate or access  
3 charge.<sup>36</sup> In acknowledging the complexity of ascertaining the CMRS subscriber's  
4 location, the FCC concluded that parties could calculate the overall compensation  
5 amounts by extrapolating from traffic studies and samples by using the CMRS  
6 subscriber's originating cell site location to determine the proportion of traffic exchanged  
7 between CMRS providers and LECs that was subject to reciprocal compensation or  
8 access charges.<sup>37</sup> West River's intention is to extrapolate from traffic studies and  
9 samples the proportion of the total traffic that is InterMTA traffic and the proportion of  
10 total traffic that is IntraMTA traffic. Mr. Thompson, in his direct testimony, discusses  
11 the methods that can be used to calculate InterMTA and IntraMTA factors that can be  
12 incorporated into the Parties' interconnection agreement.<sup>38</sup>

13 **Q. Do you agree with Mr. Williams that Alltel's proposed language on how to measure**  
14 **and distinguish IntraMTA traffic from InterMTA Traffic "may serve to avoid**  
15 **unnecessary disputes during the term of the agreement?"<sup>39</sup>**  
16

17 **A.** No, I do not. Alltel's definition is silent on how to determine the location of the cellular  
18 subscriber when the call is originated and therefore does not provide the parties a  
19 methodology to distinguish IntraMTA Traffic from InterMTA Traffic.

20 **Q. Do you believe Alltel's proposed language will create disputes over how to**  
21 **determine whether or not a call is an InterMTA call or an IntraMTA call?**  
22

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<sup>36</sup> See First Report and Order, at para. 1044.

<sup>37</sup> Ibid.

<sup>38</sup> See Mr. Thompson Direct Testimony, at pages 8-11.

<sup>39</sup> See Mr. Williams Direct Testimony, Page 18 Lines 6-7.

1 A. Yes, I do. If the agreement does not specify how the parties are to determine the location  
2 of the cellular subscriber when a call is originated (i.e. the originating cell site location), I  
3 believe there will be disputes regarding the proportion of traffic that is InterMTA versus  
4 IntraMTA.

5 **Q. How does West River propose to differentiate traffic that is subject to access**  
6 **charges (InterMTA) versus which traffic is subject to transport and termination**  
7 **charges (IntraMTA)?**  
8

9 A. West River proposes to use traffic studies and samples as described by Mr. Thompson.

10 **Q. How should the Commission rule on this issue?**  
11

12 A. In order to avoid on-going conflicts and billing disputes between the Parties, the  
13 Commission should eliminate any ambiguity and confirm that the determination of  
14 whether the call is an IntraMTA call or an InterMTA call should be based upon the  
15 location of the initial cell site serving the wireless end user at the start of the call and the  
16 location of the end office serving the wireline end user. If the initial cell site information  
17 can not be used, study samples as described by Mr. Thompson should be used as an  
18 alternative in calculating the appropriate InterMTA and IntraMTA percentages.<sup>40</sup> In such  
19 a case, references to the phrase “the location of the connecting cell site” could be  
20 removed from the definitions of InterMTA and IntraMTA Traffic. In its place, such  
21 definitions could refer to the location of the rate center of the CMRS customer’s NPA-  
22 NXX to estimate the location of the CMRS customer. Such additions to the definition  
23 would help to remove any ambiguities as to how the parties calculate the appropriate  
24 proportion of traffic that is IntraMTA and the proportion of traffic that is InterMTA.

25  
26 **Issue 7: Which Party can initiate a direct interconnection request?**

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<sup>40</sup> See Mr. Thompson Direct Testimony, description of SS7 Method, at page 9

1 **Q. Do you understand the position that Alltel is trying to articulate regarding Issue 7?**

2 A. No I do not. Alltel first raised this issue in its Response to the Petition for Arbitration. In  
3 its response, Alltel stated that the proposed language in Section 3.1.3 of the Agreement  
4 provides that either Party can request and thus require direct interconnection facilities.  
5 Alltel then states in its Response that as a CMRS provider, Alltel has the right to seek  
6 indirect interconnection pursuant to 47 U.S.C. § 251(a)(1).<sup>41</sup>

7 Mr. Williams, in his testimony, does not refer to either indirect interconnection or to  
8 section 251(a)(1) of the Act as does Alltel's response. Instead, Mr. Williams states that  
9 "an incumbent LEC has an affirmative obligation to provide a direct interconnection at  
10 the request of a competitive carrier,"<sup>42</sup> and by way of a footnote references 47 U.S.C. §  
11 251(c)(2). Mr. Williams' finishes his testimony on this issue by stating that "Alltel's  
12 proposed language merely reflects this situation."

13 **Q. Given the inconsistencies between Alltel's Response on Issue 7 and Mr. Williams**  
14 **testimony on Issue 7, do you know which of "Alltel's proposed language" Mr.**  
15 **Williams refers to in his testimony?**

16 A. No I do not. Given that Alltel's Response to Issue 7 refers to Section 3.1.3 of the  
17 Agreement, I can only speculate that Alltel's proposed language for which Mr. Williams  
18 is referring is found in that section. As I stated in my direct testimony, Alltel's proposed  
19 language for Section 3.1.3, that it can unilaterally dictate the use of a two-way direct  
20 interconnection facility, conflicts with the language found in Section 4.5 in both West  
21 River's proposed interconnection agreement and the Agreement as submitted by Alltel in  
22 its Response. No changes to section 4.5 have been proposed in Mr. Williams' testimony.  
23 Section 4.5 of both Agreements states the following:

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<sup>41</sup> See Alltel's Response, at para. 22.

<sup>42</sup> See Mr. Williams Direct Testimony, at page 18, Lines 16-18.



1 As an alternative to routing traffic covered by this Agreement  
2 through a Point of Interconnection, either Party may choose to  
3 deliver Traffic from its network to the other Party's network via a  
4 Third Party Provider and thus be Indirectly Connected with the  
5 other Party for delivery of Traffic.  
6

7 Thus, Alltel's proposed language for Section 3.1.3 would be impracticable with its  
8 accepted language for Section 4.5.

9 **Q. If Alltel's proposed language for Section 3.1.3 is adopted, how could Alltel's**  
10 **proposed language require West River to route its originating traffic?**

11 A. Alltel's language would require West River, at Alltel's directive, to route its originating  
12 traffic over a direct connection and pay for the direct connection whether or not West  
13 River wanted to use the direct connection for its originating traffic.

14 **Q. Does Alltel's proposed language for section 3.1.3, that it can unilaterally require**  
15 **West River to use a 2-way direct connection, contradict its previous position in**  
16 **Docket TC06-159?**

17 A. Yes, it does. In that proceeding, Venture Communications Cooperative was the  
18 Incumbent LEC. With respect to Issue 8 in that proceeding, the subject of which was  
19 "Land-to-Mobile Traffic Direct Interconnection" Alltel stated that the "Utilization of a  
20 direct connection is an option available to Venture but is not mandated."<sup>43</sup>

21 **Q. Mr. Williams states that an incumbent LEC has an affirmative obligation to provide**  
22 **a direct interconnection at the request of a competitive carrier. Does Mr. Williams**  
23 **state that the incumbent LEC must provide for a 2-way direct interconnection**  
24 **facility at the request of a competitive carrier and thus require West River to use a**  
25 **direct interconnection?**

26 A. No he does not. He states that West River has to provide a direct connection (i.e. for  
27 Alltel to terminate its Traffic to West River). His testimony does not back-up the  
28 language that Alltel has proposed in Section 3.1.3 of the Agreement, which states that  
29 West River must use a 2-way direct connection at the request of Alltel.

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<sup>43</sup> See Response of Alltel Communications, Inc., to Petition for Arbitration of Venture Communications Cooperative, Docket No. TC06-159, filed October 10, 2006, at para. 24.

- 1 **Q. Does Mr. Williams provide any support for his assertion that Alltel can unilaterally**  
2 **require the use of a 2-way direct interconnection facility?**
- 3 A. No he does not. Mr. Williams simply refers to Section 251(c)(2) of the Act.
- 4 **Q. Does Section 251(c)(2) of the Act support Alltel's proposed contract language**  
5 **allowing it to unilaterally require the use of a 2-way direct interconnection facility?**
- 6 A. No it does not. Section 251(c)(2) of the Act imposes an obligation on the incumbent  
7 LEC to provide "for the facilities and equipment of any requesting telecommunications  
8 carrier, interconnection with the local exchange carrier's network at any technically  
9 feasible point within the carrier's network."
- 10 **Q. Does the FCC's attendant rule to Section 251(c)(2) of the Act support Alltel's**  
11 **proposed contract language allowing it to unilaterally require the use of a 2-way**  
12 **direct interconnection facility?**
- 13 A. No it does not. The attendant FCC rule to Section 251(c)(2) of the Act is 47 C.F.R. §  
14 51.305 (a)(2). This FCC rule imposes an obligation on the incumbent LEC to provide  
15 "for the facilities and equipment of any requesting telecommunications carrier,  
16 interconnection with the local exchange carrier's network at any technically feasible  
17 point within the incumbent LEC's network."
- 18 **Q. How do you recommend that the Commission act on this issue?**
- 19 A. Given that the Act and FCC rules do not give any party the right to dictate the use of 2-  
20 way direct interconnection facilities, the fact the Alltel's proposal contradicts its previous  
21 position in Docket TC06-159, the fact that Mr. Williams' testimony does not back-up or  
22 provide support for Alltel's proposed language, and the fact that such language conflicts  
23 with the agreed upon language in Section 4.5, I recommend that the Commission reject  
24 Alltel's proposed language and accept the language as proposed by West River for  
25 Section 3.1.3 of the interconnection agreement.
- 26 **Q. Under issue 7-"Which Party can initiate a direct interconnection request?" Mr.**  
27 **Williams submits a new topic of discussion which was not included in Alltel's**

1           **Response to the Petition for Arbitration. What is your understanding of the new**  
2           **issue raised by Mr. Williams?**

3    A.    Based upon Mr. Williams' testimony, I believe Alltel wants to recommend locations for  
4           the POI when the Parties are directly interconnected.

5    **Q.    In its Response to the Petition for Arbitration, did Alltel object to the locations West**  
6           **River listed as technically feasible points of interconnection attached as Exhibit A to**  
7           **West Rivers's Petition?**

8    A.    No, it did not. West River, in its proposed Agreement which was included in its Petition  
9           for Arbitration, identified technically feasible points of direct interconnection. These  
10          technically feasible points, identified in Appendix B of the proposed Agreement, are at  
11          each of West River's stand alone or host end-office switch locations. As I stated in my  
12          direct testimony, Alltel may choose to use a direct connection, an indirect connection  
13          through the use of a transit provider such as Qwest or SDN, or a combination thereof to  
14          each of these specific locations for the purpose of terminating its traffic to subscribers  
15          served by each of the listed locations. Alltel, in its Response to West River's Petition,  
16          did not object to West River's proposed points of interconnection and did not offer any  
17          alternatives to West River's proposed points of interconnection.

18   **Q.    If Alltel chooses to route its traffic over a direct connection to West River's**  
19          **subscribers served by a rate center listed in Appendix B, where would the POI be**  
20          **located?**

21   A.    The POI would be located in the rate center listed in Appendix B where the end office is  
22          located that serves West River's end user subscriber. Mr. Williams' use of the word  
23          "any" in his testimony is too broad in that it could be interpreted to mean that a POI could  
24          be established in one rate center for traffic terminated in another. As an example, it would  
25          make little sense to establish a POI in West River's rate center of Nisland for traffic that  
26          Alltel wants to terminate to West River's subscribers located in Lemmon.

1 **Q. Mr. Williams proposes additional POI locations for West River originated traffic**  
2 **including Alltel's meet point with SDN, Alltel's meet point with Qwest, and Alltel's**  
3 **switch location. Do you object to Mr. Williams' proposal?**

4 A. Yes, I object to Mr. Williams' proposal. The FCC rule, 47 C.F.R. § 51.305 (a)(2),  
5 requires that interconnection must be at a point within the incumbent LEC's network.  
6 This only makes sense. The 1996 amendment to the Telecommunications Act opened  
7 ILECs' markets to competition. Given a competitor is going to compete with the ILEC  
8 for the ILEC's subscribers, it would make no sense to compete for the ILEC's subscribers  
9 in the ILEC's marketplace, but then interconnect at a location removed from the location  
10 in which you are competing. Yet this is precisely what Alltel is proposing. The locations  
11 proposed by Mr. Williams are more than likely located either in Sioux Falls, South  
12 Dakota or in Rapid City, South Dakota. West River has no obligation to interconnect  
13 outside of the rate centers where Alltel has selected to compete with West River. Mr.  
14 Williams' proposals would require West River to incur the cost of facilities to locations  
15 in Sioux Falls or Rapid City even though West River has no intent to compete with Alltel  
16 at those locations. In addition, interconnecting at these locations clearly contradicts the  
17 first part of Mr. Williams' testimony on issue 7 in which he references Section 251(c)(2)  
18 in footnote 4. Sioux Falls and Rapid City clearly do not meet the standard established in  
19 Section 251(c)(2), that is, interconnection within the ILEC's network.

20 Mr. Williams' proposal is even more problematic when combined with Alltel's proposed  
21 language as previously discussed in Section 3.1.3 as well as Mr. Williams' definition of  
22 dialing parity which he expands beyond the definition in FCC rules.

1           When Alltel's proposal on Issue 7(b) is viewed in conjunction with its proposal on Issue  
2           7(a) and with Mr. Williams' claims regarding the meaning of dialing parity in Issue 4,  
3           one is left with the following business paradigm:

- 4           • Alltel elects to compete with West River in West River rate centers.
- 5           • Alltel dictates that West River must route its originating traffic to Alltel over a direct  
6           connection--Issue 7a.
- 7           • Alltel dictates a location for West River to route its originating Traffic to--a location  
8           where West River and Alltel do not compete with one another- -Issue 7b.
- 9           • West River incurs the cost of facilities to this location.
- 10          • West River, based on Mr. Williams' dialing parity claim, can not assess its end user a  
11          charge and therefore can not recover its increased cost associated with Alltel's proposal  
12          for routing as dictated by 7(a) and 7(b).

13   **Q.    How do you recommend the Commission act on Issues 7(a) and 7(b)?**

14   A.    The Commission should reject Alltel's proposed POI locations that are outside of West  
15          River's serving area.

16   **Q.    Does this conclude your testimony?**

17   A.    Yes, it does.