

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION
OF SANTEL COMMUNICATIONS
COOPERATIVE, FOR ARBITRATION
PURSUANT TO THE
TELECOMMUNICATIONS ACT OF
1996 TO RESOLVE ISSUES RELATING
TO AN INTERCONNECTION
AGREEMENT WITH ALLTEL
COMMUNICATIONS, INC.

Docket No.
TC07-115

**DIRECT TESTIMONY OF DAN DAVIS
ON BEHALF OF SANTEL COMMUNICATIONS COOPERATIVE**

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 TELECOM Consulting Resources Inc. My business address is 233 South 13th Street, Suite 1225, Lincoln, Nebraska, 68508.

Q. On whose behalf are you testifying?

A. I am testifying on behalf of Santel Communications Cooperative, (“Santel”). Santel provides local telephone exchange service and exchange access service predominantly in the more rural parts of South Dakota.

Q. What is your current position?

A. I am a senior consultant at Consortia.

Q. What are your duties and responsibilities at Consortia?

1 A. I am responsible for consulting with clients regarding regulatory, financial and
2 interconnection issues. I testify on behalf of clients, predominately rural ILECs, on the
3 foregoing issues before state commissions and provide written comments before the
4 Federal Communications Commission (“FCC”) and state commissions on regulatory and
5 interconnection dockets.

6 **Q. What was your professional experience prior to your current position?**

7 A. I have worked in the telecommunications industry for 23 years, the last seven years of
8 which have been at Consortia. Prior to my position with Consortia, I worked at ALLTEL
9 (formerly known as Aliant Communications prior to merging with ALLTEL) as the
10 Regulatory/Financial manager of their Nebraska competitive local exchange carrier
11 (“CLEC”) operations. Prior to that position, I worked for Aliant Communications in the
12 areas of Regulatory Policy and Separations and Access.

13 **Q. What is your educational background?**

14 A. I have a Master’s degree in Finance and a Bachelor’s degree in Business from the
15 University of Nebraska.

16 **Q. Have you previously testified before the South Dakota Public Utilities Commission?**

17 A. Yes I have. In June of 2004, I testified on behalf of several rural incumbent local
18 exchange carriers (“ILECs”) in which I presented data supporting each of the rural
19 ILEC’s requests for suspension of Local Number Portability (“LNP”) requirements. In
20 December 2005, I testified on behalf of rural ILECs in support of the Joint Petition for
21 Extension of the LNP suspension date. I have also provided written testimony on behalf
22 of rural ILECs in interconnection proceedings that were resolved prior to hearing.
23

1 **Q. Will you please identify the areas of dispute raised in this proceeding for which you**
2 **will be providing testimony and identify issues raised in which direct testimony will**
3 **be provided on behalf of Santel by other witnesses?**
4

5 A. Yes, I will identify those issues for which I will provide direct testimony as well as
6 identify those issues for which direct testimony will be provided by other witnesses on
7 behalf of Santel. Some of these areas are identified as issues in the Petition for
8 Arbitration filed by Santel (the “Petition”) and the Response to the Petition filed by Alltel
9 (the “Response”). I would define other issues as sub-issues as they are discussed under
10 the main topical issues identified in the Petition and Response. In either case, I have
11 identified the topics for my testimony by reference to the issue numbers as contained in
12 either the Petition or in the Response. Sub-issues relating to a particular numbered issue
13 are assigned sub-issue numbers, i.e. “first sub-issue,” etc.

14 **Summary of Issues**
15

16 **A. Issue 1:** Issue 1 from the Petition is: “Is the reciprocal compensation rate for
17 IntraMTA Traffic proposed by the Telco appropriate pursuant to 47 U.S.C. §252(d)(2)?”
18 Tim Eklund of Consortia Consulting and Nathan Weber of Vantage Point Solutions will
19 address this issue in each of their testimonies.

20 **B. Issue 2:** The second issue from the Petition is: “What is the appropriate percent
21 InterMTA use factor to be applied to non-IntraMTA traffic exchanged between the
22 parties?” Larry Thompson of Vantage Point Solutions will provide testimony on this
23 issue. Mr. Thompson will also provide testimony on the proportion of non-IntraMTA
24 traffic exchanged between the parties that is intrastate traffic and the proportion that is
25 interstate traffic.

1 **C. Issue 2, First Sub-issue:** My first area of testimony concerns Issue 2. I will
2 address as the first sub-issue to Issue 2 Alltel’s statement that “Petitioner’s proposal on
3 the use of interstate versus intrastate access rates for such InterMTA traffic is also
4 unsupported.” I will provide support for Santel’s proposal that its intrastate access tariff
5 shall be used to provide the rate for intrastate InterMTA traffic and its interstate access
6 tariff shall be used to provide the rates for interstate InterMTA traffic.

7 **D. Issue 2, Second Sub-Issue:** Alltel also presents a second sub-issue in connection
8 with Issue 2. I will discuss Alltel’s claim that a net InterMTA factor should be used
9 between Alltel and Santel. I will demonstrate that such an approach would only be
10 appropriate in those limited situations where Santel delivers InterMTA traffic directly to
11 Alltel on a direct connection and only if Santel agrees to assume billing responsibility for
12 Alltel. In addition, Alltel would need to provide data indicating the amount of InterMTA
13 traffic that Santel is terminating on the direct connection. Assuming that Santel does not
14 agree to assume Alltel’s billing responsibility, Alltel would need to establish the
15 appropriate rate for billing InterMTA traffic.

16 **E. Issue 3:** Issue 3 in the Petition is: “What is the appropriate manner by which the
17 minutes of use of IntraMTA Traffic terminated by the parties, one to the other, should be
18 calculated and billed?” I will address why it is appropriate for each party to measure and
19 bill the other for the minutes of use terminating to its network from the other party.

20 **F. Issue 4:** Issue 4 in the Petition is: “What is the obligation of the parties with
21 respect to dialing parity?” I will testify that Santel will provide dialing parity as required
22 by the Act and applicable FCC Rules.

1 **G. Issue 5:** Issue 5 in the Petition is: “What is the appropriate effective date and
2 term of the agreement?” Since Alltel states that it accepts the effective date and term of
3 the Agreement as proposed by Santel, no testimony is needed for this issue.

4 **H. Issue 6** in Alltel’s Response is: “What is the appropriate definition of IntraMTA
5 and InterMTA Traffic?” I will testify that Alltel’s recommendation to strike the phrase
6 “based on the location of the connecting Cell Site serving the wireless End User at the
7 beginning of the call and the location of the End Office serving the wireline End User” is
8 inconsistent with the FCC’s previous finding.¹

9 **I. Issue 7:** I will provide testimony regarding Issue 7 in the Response, which is:
10 “Which party can initiate a direct interconnection request?” I will testify that contrary to
11 Alltel’s assertion, Santel’s proposed language in Section 3.1.3 of the agreement does not
12 give either party the right to require a direct interconnection facility in order to terminate
13 Traffic. Alltel proposes language that would give it the right to unilaterally dictate a two-
14 way direct connection.² Santel does not agree to Alltel’s proposed language as it is
15 inconsistent with other language in both Santel’s and Alltel’s proposed Agreements.

16 **Testimony-Issue 2 – Issue 7**

17
18 **Issue 2: What is the appropriate InterMTA use factor to be applied to interMTA traffic**
19 **exchanged between the parities?**

20
21 **Issue 2, First Sub-Issue: Alltel’s claim that Santel’s use of interstate versus intrastate**
22 **access rates for InterMTA traffic is unsupported.**

23
24 **Q. Do you agree with Alltel’s claim that Santel’s use of interstate versus intrastate**
25 **access rates for InterMTA traffic is unsupported?**

¹ See *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98 and *Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers*, CC Docket No. 95-185, First Report and Order, FCC 96-325, Released August 8, 1996, at para. 1044 (“*First Report and Order*”).

² According to paragraph 22 of Alltel’s Response, Alltel states that it has the unilateral right to seek indirect interconnection, pursuant to 47 U.S.C. § 251(a)(1).

1
2 A. No I do not. Santel proposes that its applicable intrastate access tariff shall be used as the
3 basis to provide the rate for intrastate InterMTA traffic and its applicable interstate access
4 tariff shall be used as the basis to provide the rates for interstate InterMTA traffic. Calls
5 that originate in South Dakota and terminate to one of the Santel exchanges are intrastate
6 calls and are properly subject to the rates as established in the intrastate tariff pursuant to
7 South Dakota Administrative Rule 20:10:29:04. Likewise, calls that are originated
8 outside of the state that are terminated to a Santel exchange are interstate calls and are
9 subject to the rates established in the interstate tariff pursuant to Section 69 of the FCC
10 rules. The FCC recognized that intrastate interMTA traffic would be assessed intrastate
11 access charges and interstate interMTA traffic would be assessed interstate access
12 charges in its *First Report and Order*. There, the FCC stated that “the geographical
13 locations of the calling and the called party determine whether a particular call should be
14 compensated under the transport and termination rates established by one state or
15 another, or under interstate or intrastate access charges . . . for administrative
16 convenience, the location of the initial cell site when a call begins shall be used as the
17 determinant of the geographical location of the mobile customer.”³ Had the FCC
18 determined that either intrastate access charges or interstate access charges do not apply
19 to interMTA traffic, it would not have referred to intrastate and interstate access charges
20 in paragraph 1044 of the *First Report and Order*.
21 Further, pursuant to South Dakota Administrative Rule 20:10:29:04, intrastate switched
22 access charges are billed for the provision of intrastate telecommunications services.
23 Thus, it is clear that the jurisdiction of the call determines the appropriate tariff under

³ See *First Report and Order* at para. 1044.

1 which to bill the carrier terminating traffic onto Santel's network. Therefore, contrary to
2 Alltel's assertion, intrastate access charges are properly applied to intrastate interMTA
3 traffic terminated by Alltel to Santel's network and interstate access charges are properly
4 applied to interstate interMTA traffic terminated by Alltel to Santel's network.

5 **Issue 2, Second Sub-Issue: Alltel's claim that to the extent an InterMTA factor is included,**
6 **that factor should reflect the net amount of InterMTA traffic exchanged between the**
7 **parties.**
8

9 **Q. Will you please identify the deficiencies of Alltel's claim that the InterMTA factor**
10 **shall reflect the net amount of InterMTA traffic exchanged between the parties?**

11
12 A. Santel routes most originating InterMTA traffic to subscribers' preferred Interexchange
13 Carriers ("IXCs"). Consistent with 47 U.S.C. § 251(g) and 47 C.F.R. § 51.701(b)(1),
14 telecommunications traffic that that is routed and carried by IXCs is subject to interstate
15 or intrastate exchange access and must be charged to and recovered from the IXC that
16 carries the call.⁴ Santel assesses IXCs exchange access charges and the IXC assesses and
17 receives compensation from the subscriber that originated the call. Since it is the IXC
18 that terminates these calls onto the Alltel network, Alltel must seek compensation from
19 the IXC for these InterMTA IXC-terminated calls and not from Santel.

20 **Q. Under what circumstance does Santel route InterMTA traffic to Alltel without the**
21 **use of an IXC?**
22

23 A. Santel routes InterMTA Traffic to Alltel without using an IXC only when Alltel has an
24 NPA-NXX code that is rated as local to the rate center from which the land line
25 subscriber originated the call. As an example, Alltel has the 605-505 NPA-NXX code
26 rated as local to the Parkston rate center of Santel. When one of Santel's end user
27 subscribers in Parkston dials and calls an Alltel subscriber with the Parkston 605-505

⁴ See *First Report and Order* at para. 1043.

1 NPA-NXX code belonging to Alltel, it is routed over a direct connection in Parkston to
2 Alltel without the use of an IXC. This is true even if Alltel's subscriber is located in an
3 MTA outside that of the MTA which Parkston is located.

4 **Q. Has Alltel provided any data regarding the amount of InterMTA traffic originating**
5 **from Parkston over the direct connection?**

6
7 A. No, they have not. Thus, a net amount can not be developed.
8

9 **Q. Even if Alltel had data regarding the proportion of the total traffic originating from**
10 **the Parkston rate center on the direct connection that was InterMTA Traffic, does**
11 **Santel have any obligation under the Act or FCC rules that requires it to apply a**
12 **credit to Alltel for such Traffic?**

13
14 A. No, I'm not aware of any provisions in the Act or FCC rules which would place such a
15 requirement upon Santel. If Alltel wishes to bill for traffic terminating on its network, it
16 should establish the appropriate means to measure and bill for such traffic. If Alltel had
17 data to determine the InterMTA percent, it could measure traffic terminating on that
18 direct connect from Santel's Parkston exchange and apply the InterMTA percent in order
19 to bill for InterMTA Traffic. Since Alltel has not provided any InterMTA data in its
20 Response or otherwise, there is no basis to even determine the appropriate InterMTA
21 billing percentage for Alltel to bill Santel.

22 **Q. If Alltel had data indicating the amount of InterMTA Traffic that was terminating**
23 **on the direct connection to Alltel from the Parkston rate center, at what rate would**
24 **Alltel bill?**

25
26 A. It is my understanding that Alltel could bill rates based upon any terminating access tariff
27 that Alltel has filed with the FCC or the South Dakota Commission, or based upon an
28 other publicly available price or rate list. Alltel's suggestion to use a net InterMTA
29 amount in effect allows Alltel to simply use the access rates as filed by Santel even
30 though Alltel has filed no such rate of their own.

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

4 **Q. What is Santel's position regarding the billing and payment for the IntraMTA**
5 **Traffic?**
6

7 A. Santel recommends that each party to the agreement should bill the other party to the
8 agreement based upon actual recorded terminating traffic it receives from the other party
9 or based upon billing records it has obtained from a third party transit provider. This is
10 how Santel currently determines the amount of terminating traffic it receives from Alltel.
11 Santel believes that Alltel should also be capable of recording terminating traffic it
12 receives on the direct connect and can obtain billing records from the third party transit
13 provider in order to bill Santel.

14 **Q. Alltel states that its position is that the interconnection agreement should allow for a**
15 **net billing approach. What is your understanding of the net billing approach?**
16

17 A. Instead of both parties measuring and billing for the traffic that terminates on its
18 respective network from the other party, under Alltel's net billing approach, only Santel
19 would be required to obtain the necessary billing records in order to bill Alltel for traffic
20 that Alltel terminates to Santel. Santel would then give Alltel a credit for the traffic that
21 Santel terminates to Alltel assuming the parties can agree to the appropriate offset
22 percentage. Santel submits that if the parties can not agree on the appropriate offset
23 percent, the most accurate and fair compensation methodology is for each of the parties
24 to obtain the necessary data in order to bill the other party.

25 **Q. Are there any obligations in the Act or FCC rules that require an ILEC to measure**
26 **its originating traffic or to purchase billing records when the terminating carrier**
27 **chooses not to measure traffic terminating onto its network or purchase billing**
28 **records in order to determine a net billing percentage?**
29

1 A. There is no requirement in Section 251 of the Act or FCC Rules which shifts the
2 obligation to Santel to measure traffic originating on its network or requires Santel to
3 assume responsibility to perform an analysis of traffic on behalf of Alltel. In Alltel's
4 proposed agreement, Alltel recommends deleting Santel's proposed language that "Each
5 party shall bill the other party for IntraMTA Traffic actually terminated to its network by
6 the other party." Instead, Alltel proposes that it "may elect to use a Reciprocal
7 Compensation Factor Billing Method in lieu of actual traffic recording." Santel has not
8 agreed to Alltel's election to "allow" for a reciprocal compensation credit. Since this net
9 billing approach is not a requirement pursuant Section 251 of the Act or the regulations
10 prescribed by the FCC pursuant to Section 251 and Santel has not agreed thereto, Santel
11 believes such a requirement should not be imposed in this proceeding.

12 Another reason to have each party measure the traffic terminating on its network from the
13 other party is that by doing so, there will be no dispute regarding the proper "net factor"
14 amount. Santel therefore recommends its proposed language be adopted.

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

16
17 **Q. Is it your understanding that this issue has been resolved?**

18
19 A. Yes, it is. Santel understands that it has a dialing parity obligation pursuant to Section
20 251(b) of the Act and Santel therefore will comply with such requirement.

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

22
23 **Q. Is it your understanding that this issue has been resolved?**

24
25 A. Yes, it is. Santel proposed that the Agreement be deemed effective as of January 1, 2007,
26 and remain in full force and effect for a period of three years after January 1, 2007.
27 Alltel, in its Response to the Petition, states that it accepts the effective date and term of

1 the Agreement as proposed by the Petitioner. Therefore, I understand that this issue has
2 been resolved.

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

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

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

9
10 A. Santel proposes that the location of the initial site when the call begins should be used as
11 the determinant of the geographical location of the mobile customers for use in
12 determining which traffic is subject to access charges (InterMTA) versus which traffic is
13 subject to transport and termination charges (IntraMTA).

14 **Q. Why did the FCC conclude that the location of the initial cell site when the call
15 begins shall be used as the determinant of the geographic location of the mobile
16 customers for use in determining which traffic is subject to access charges
17 (InterMTA) versus which traffic is subject to transport and termination charges
18 (IntraMTA)?**

19
20 A. In the *First Report and Order*, the FCC concluded that traffic between an incumbent LEC
21 and a CMRS network that originates and terminates within the same MTA (defined based
22 on the parties' location at the beginning of the call) is subject to the transport and
23 termination rate under section 251(b)(5), rather than interstate or intrastate access
24 charges.⁵

25 The FCC recognized that since CMRS customers may travel from location to location
26 during the course of a single call, it would be difficult to determine the applicable
27 transport and termination rate or access charge.⁶ According to the FCC, "This could

⁵ See, *First Report and Order* at para. 1043.

⁶ Id. at para. 1044.

1 complicate the computation of traffic flows and the applicability of transport and
2 termination rates, given that in certain cases, the geographic locations of the calling party
3 and the called party determine whether a particular call should be compensated under
4 transport and termination rates established by one state or another, or under interstate or
5 intrastate access charges.”⁷ In acknowledging the complexity of ascertaining the CMRS
6 subscriber’s location, the FCC concluded that parties could calculate the overall
7 compensation amounts by extrapolating from traffic studies and samples by using the
8 CMRS subscriber’s originating cell site location to determine the proportion of traffic
9 exchanged between CMRS providers and LECs that was subject to reciprocal
10 compensation or access charges.⁸

11 **Q. The FCC stated that as an alternative to using the location of the initial cell site**
12 **when the call begins as a surrogate for the location of the cellular parties’ locations**
13 **at the beginning of the call, “LECs and CMRS providers can use the point of**
14 **interconnection between the two carriers at the beginning of the call to determine**
15 **the location of the mobile caller or called party.” Why doesn’t the Agreement**
16 **proposed by Santel use this as a way to determine the location of the cellular**
17 **subscriber at the beginning of the call?**

18
19 **A.** The Point of Interconnection in the Agreement proposed by Santel and as well as the
20 Agreement proposed by Alltel is defined as “a physical location where the exchange of
21 traffic between the Parties takes place thereby establishing the technical interface and
22 points for operational and financial division of responsibility.” It is obvious by this
23 definition that it in no way relates to all of the possible locations of the CMRS subscriber
24 when the call originates. Using the Point of Interconnection as the surrogate for the
25 location of the wireless subscriber would assume that all calls to or from the wireless

⁷ Ibid.

⁸ Ibid.

1 subscriber are originated from or terminated to that specific location. Appendix B of the
2 proposed Agreement defines the locations for Point of Interconnection for direct
3 connects, which are Santel's host and stand alone end offices. It would be ridiculous to
4 assume that these are the only locations in which cellular subscribers can be located when
5 they place or receive calls. By means of an example, currently Alltel and Santel have a
6 Point of Interconnection at the Parkston switch. Using this Point of Interconnection at
7 Parkston as the surrogate for the location of the cellular subscriber would in effect
8 assume that when any Alltel subscriber calls a Santel subscriber, all such calls are placed
9 from Parkston regardless of whether the subscriber is likely at a location other than the
10 Point of Interconnection.

11 **Q. Has Alltel, in its proposed Agreement, defined the location of the cellular subscriber**
12 **at the beginning of the call to be the Point of Interconnection between Santel and**
13 **Alltel?**

14
15 A. No, it has not.

16 **Q. In defining IntraMTA and InterMTA Traffic, Alltel recommends deletion from**
17 **Santel's proposed definition of references to the locations of the connecting cell site**
18 **servicing the wireless End User as the basis for determining the location of the**
19 **wireless subscriber. Does Alltel, in its proposed Agreement, offer an alternative or a**
20 **proxy for determining or deciding the location of the wireless subscriber?**

21
22 A. No. Alltel's definition provides no basis on which to determine the location of the
23 wireless subscriber at the beginning of a call in order to determine whether the call is an
24 IntraMTA call or an InterMTA call. I believe the Agreement must include the basis for
25 determining the location of the wireless subscriber at the beginning of the call in order to
26 avoid on-going conflicts and billing disputes between the Parties. The Commission
27 should eliminate any ambiguity and confirm that the determination of whether the call is
28 an IntraMTA call or an InterMTA call should be based upon the location of the initial cell

1 site serving the wireless end user at the start of the call and the location of the end office
2 serving the wireline end user.

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

4 **Q. Do you agree with Alltel’s assertion that based upon Section 3.1.3 of the Petitioner’s**
5 **proposed Interconnection Agreement that either Party can request and thus require**
6 **a direct connection?**

7 A. No I do not. Section 3.1.3 of the Interconnection Agreement proposed by Santel states
8 the following: “When both parties agree to utilize and implement 2-way facilities in
9 accordance with the terms of 3.2.1.1, the parties will provision two-way direct
10 interconnection facilities between their networks with each Party being responsible for
11 their own recurring and non-recurring facility costs to the POI.” (emphasis added) Since
12 this section specifically states “when both Parties agree,” Alltel’s assertion that either
13 party can unilaterally require a direct connection is incorrect. Section 3.1.3 of the
14 Proposed Agreement references Section 3.2.1.1, which in turn references points of
15 interconnection in Appendix B. The locations listed in Appendix B are each of Santel’s
16 stand alone end office switch locations or host end office switch locations. Alltel may
17 choose to use a direct connection, an indirect connection through the use of a transit
18 provider such as Qwest or SDN, or a combination thereof to each of these specific
19 locations for the purpose of terminating its traffic to subscribers served by each of the
20 listed locations.

21 Santel’s proposed language does not in any way dictate that Alltel must use direct
22 facilities in order to terminate its traffic to Santel’s subscribers. It is Alltel’s proposed
23 language that would allow Alltel to unilaterally require the use of a two-way direct
24 interconnection at Alltel’s request. I believe that Alltel’s proposal to dictate that Santel
25 must utilize these facilities if requested by Alltel is inconsistent with the language in

1 Section 4.5 of Santel's and Alltel's proposed agreement. According to Section 4.5, either
2 Party may choose to route its originating Traffic on an indirect basis through the use of a
3 Third Party Provider. Given Alltel's acceptance of the language of Section 4.5 and the
4 inconsistency created through Alltel's suggested language in Section 3.1.3, Santel
5 submits that the Commission accept the language in Section 3.1.3 as proposed by Santel.

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

7 A. Yes, it does.