

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF SOUTH DAKOTA**

<b>IN THE MATTER OF THE PETITION OF )</b>	<b>ORDER FOR AND NOTICE</b>
<b>BERESFORD MUNICIPAL TELEPHONE )</b>	<b>OF HEARING</b>
<b>COMPANY FOR ARBITRATION PURSUANT TO )</b>	
<b>THE TELECOMMUNICATIONS ACT OF 1996 )</b>	<b>TC07-113</b>
<b>TO RESOLVE ISSUES RELATING TO AN )</b>	
<b>INTERCONNECTION AGREEMENT WITH )</b>	
<b>ALTEL COMMUNICATIONS, INC. )</b>	

On October 19, 2007, Beresford Municipal Telephone Company (Beresford) filed a petition for arbitration of certain unresolved terms and conditions of a proposed Interconnection Agreement between Beresford and Alltel Communications, Inc. (Alltel), pursuant to Section 252 of the Telecommunications Act of 1996, SDCL 49-31-81, and ARSD 20:10:32:29. Beresford filed a list of unresolved issues consisting of:

- (1) Is the reciprocal compensation rate for IntraMTA Traffic proposed by Beresford appropriate pursuant to 47 U.S.C. Section 252(d)(2)?
- (2) What is the appropriate Percent InterMTA Use factor to be applied to non-IntraMTA traffic exchanged between the parties?
- (3) What is the appropriate manner by which the minutes of use of IntraMTA Traffic terminated by the parties, one to the other, should be calculated and billed?
- (4) What is the obligation of the parties with respect to dial parity?
- (5) What is the appropriate effective date and term of the Agreement?

Beresford requests the following relief:

- A. Issuance of an Order requiring arbitration of any and all unresolved Issues between Beresford and WWC;
- B. Issuance of an Order directing Beresford and Alltel to submit to this Commission for approval an interconnection agreement reflecting:
  - (i) the agreed-upon language in Exhibit A, and
  - (ii) the resolution of any unresolved issues in accordance with the positions and recommendations made by Beresford as set forth herein at the arbitration hearing to be scheduled by this Commission;
- C. Issuance of an Order directing the parties to pay interim compensation for transport and termination of telecommunications traffic from January 1, 2007 (the Effective Date set forth in Exhibit A) to the date on which the Commission approves the parties' executed interconnection agreement in accordance with Section 252(e) of the Act; and
- D. Issuance of an Order asserting this Commission jurisdiction over this arbitration until the parties have submitted an executed interconnection agreement for approval by this Commission in accordance with Section 252(e) of the Act;
- E. Any other, further and different relief as the nature of this matter may require or as may be just, equitable and proper to this Commission.

In accordance with ARSD 20:10:32:30, a non-petitioning party may respond to the petition for arbitration and provide additional information within 25 days after the Commission receives the petition.

On November 13, 2007, the Commission received a Response of Alltel Communications, Inc. to Petition for Arbitration of Beresford Municipal Telephone Company. Alltel included two additional issues for resolution:

(6) What is the appropriate definition of intraMTA and interMTA traffic?

(7) Which party can initiate a direct interconnection request?

On November 26, 2007, the Commission received a Proposed Scheduling Order from Beresford. On November 28, 2007, the Commission received a Proposed Scheduling Order Response from Alltel. On December 17, 2007, the Commission received a Stipulation for Scheduling Order and a Stipulation and Confidentiality Agreement signed by the Parties.

At its January 29, 2008, meeting, the Commission considered the assessment of filing fees and the Stipulation for Scheduling Order. The Commission voted to require the parties to make a deposit not to exceed \$75,000, pursuant to SDCL 49-31-44, and approved the Stipulation and Scheduling Order. The hearing in this matter was scheduled for April 23, 2008, through April 25, 2008.

On March 17, 2008, the Commission received Alltel's Motion to Compel Responses to Discovery Requests. On March 24, 2008, the Commission received a Response to Motion to Compel and Postpone Deadlines and a Motion to Extend Deadline for Filing of Direct Testimony from Beresford.

At its March 25, 2008, meeting, the Commission considered the Motion to Compel Responses to Discovery Requests. After listening to the arguments of the parties, the Commission voted to grant the motion (Chairman Hanson, dissenting). The Commission found that the discovery requested appeared reasonably calculated to lead to the discovery of admissible evidence. The Commission directed Staff to work with the parties regarding possible revisions to the procedural schedule. By order dated April 22, 2008, the hearing scheduled for April 23-25, 2008, was cancelled. On May 20, 2008, the Commission received an Extension Agreement signed by the parties extending the Commission's decision date.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31, including 49-31-3 and 49-31- 81, and 47 U.S.C. Sections 251 and 252. The Commission may rely upon any or all of these or other laws of this state in making its determination.

A hearing will be held on this matter beginning at 1:00 P.M. on July 29, 2008, and continuing at 8:30 A.M. on July 30, 2008, through August 1, 2008, in the Floyd Matthew Training Center, Foss Building, 523 East Capitol, Pierre, South Dakota.

The issues to be determined by the Commission are the issues set forth by Beresford in its Petition for Arbitration and the issues as set forth by Alltel in its Response to the Petition for Arbitration that are unresolved. These issues are hereby incorporated by reference.

The hearing will be an adversary proceeding conducted pursuant to SDCL Chapter 1-26. All persons testifying will be subject to cross-examination by the parties. All parties have the right to be present and to be represented by an attorney. These rights and other due process rights may be forfeited if not exercised at the hearing. If a party or its representative fails to appear at the time and place set for the hearing, the Final Decision will be based solely on the testimony and evidence provided, if any, during the hearing or a Final Decision may be issued by default pursuant to SDCL 1-26-20. After the hearing, the Commission will consider all evidence and testimony that was presented at the hearing. The Commission will then enter Findings of Fact, Conclusions of Law, and a Final Decision regarding this matter. As a result of the hearing, the Commission will resolve issues listed in Beresford's Petition for Arbitration and Alltel's Response to the Petition for Arbitration and order any appropriate relief. The Commission's Final Decision may be appealed by the parties as provided by law. It is therefore

ORDERED, that a hearing shall be held at the time and place specified above.

Pursuant to the Americans with Disabilities Act, this hearing is being held in a physically accessible location. Please contact the Public Utilities Commission at 1-800-332-1782 at least 48 hours prior to the hearing if you have special needs so arrangements can be made to accommodate you.

Dated at Pierre, South Dakota, this 28<sup>th</sup> day of May, 2008.

<b>CERTIFICATE OF SERVICE</b>
The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically..
By: <u><i>Rhaine Kolbe</i></u>
Date: <u>5/30/08</u>
(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

*Gary Hanson*  
GARY HANSON, Chairman

*Steve Kolbeck*  
STEVE KOLBECK, Commissioner

*Dustin M. Johnson*  
DUSTIN M. JOHNSON, Commissioner