

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

IN THE MATTER OF THE PETITION OF)	ORDER FOR AND NOTICE
KENNEBEC TELEPHONE COMPANY FOR)	OF HEARING
ARBITRATION PURSUANT TO THE)	
TELECOMMUNICATIONS ACT OF 1996 TO)	TC07-114
RESOLVE ISSUES RELATING TO AN)	
INTERCONNECTION AGREEMENT WITH)	
ALLTEL COMMUNICATIONS, INC.)	

On October 19, 2007, Kennebec Telephone Company (Kennebec) filed a petition for arbitration of certain unresolved terms and conditions of a proposed Interconnection Agreement between Kennebec 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. Kennebec filed a list of unresolved issues consisting of:

- (1) Is the reciprocal compensation rate for IntraMTA Traffic proposed by Kennebec 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?

Kennebec requests the following relief:

- A. Issuance of an Order requiring arbitration of any and all unresolved Issues between Kennebec and WWC;
- B. Issuance of an Order directing Kennebec 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 Kennebec 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; and
- 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 Kennebec 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 Kennebec. 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 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.

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 Kennebec.

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 (Commissioner 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. On May 20, 2008, the Commission received an Extension Agreement signed by the parties extending the Commission's decision date. On June 10, 2008, the Commission received a Stipulation for Amended Scheduling Order and Decision Date signed by the parties. At its July 8, 2008, meeting, the Commission unanimously voted to approve the Stipulation for Amended Scheduling Order and Decision Date.

A hearing on this matter was held July 29, 2008 through July 31, 2008. On November 14, 2008, the Commission received a Stipulation to Supplement Record of Consolidated Arbitration Hearing signed by the parties. At its regularly scheduled meeting of November 25, 2008, the Commission unanimously voted to approve the Stipulation to Supplement Record of Consolidated Arbitration Hearing. At its January 27, 2009, meeting, the Commission decided the unresolved issues as presented by the parties. On February 27, 2009, the Commission issued its Findings of Fact; Conclusions of Law; Notice of Entry of Order. In its order, the Commission decided all of the issues except for the first issue regarding the reciprocal compensation rate for intraMTA traffic. The Commission required Kennebec to revise and refile its cost study reflecting the following: (1) the elimination of the costs associated with the Web-Self Care system, including the Web Self-Care License and Web Self-Care system-non-NEVS, the CALEA license, and the Centrex license; (2) the use of a rate equivalency method basis of cost assignment for transport costs; and (3) a new forecasted demand.

On March 30, 2009, the Commission received a Petition for Reconsideration from Alltel. On April 14, 2009, the Commission received Petitioner's Opposition to Alltel's Petition for Reconsideration. At its May 19, 2009, meeting, the Commission voted unanimously to deny the Petition for Reconsideration. Pursuant to ARSD 20:10:01:29, the Commission found Alltel failed to provide sufficient reasons for granting reconsideration. On June 9, 2009, the Commission received a Motion to Compel from Alltel. On June 12, 2009, the Commission received a Stipulation for Amended Scheduling Order signed by the parties. At its June 23, 2009, meeting, the Commission voted unanimously to approve the Stipulation for Amended Scheduling Order. On July 13, 2009, the Commission received a Response to Alltel's Motion to Compel from Kennebec.

At its July 14, 2009, meeting, the Commission voted unanimously to grant the Motion to Compel in part as it relates to cost information for CALEA, Centrex and Web Self-Care, that such information shall be handled confidentially and that Kennebec shall work with the vendors to make sure that Alltel receives the information it needs.

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 9:30 A.M. on August 3, 2009, with marking of exhibits to begin at 9:00 A.M., and continuing at 8:30 A.M. on August 4, 2009, and August 5, 2009, in Room 414, State Capitol, 500 East Capitol, Pierre, South Dakota.

The issue to be determined by the Commission is: what is the appropriate reciprocal compensation rate for intraMTA traffic?

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 the issue regarding the appropriate reciprocal compensation rate for intraMTA traffic 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 21st day of July, 2009.

CERTIFICATE OF SERVICE	
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>Delaine Kolbo</i></u>
Date:	<u>7/21/09</u>
(OFFICIAL SEAL)	

BY ORDER OF THE COMMISSION:

Dustin M. Johnson
DUSTIN M. JOHNSON, Chairman *dk*

Steve Kolbeck
STEVE KOLBECK, Commissioner

Gary Hanson
GARY HANSON, Commissioner