BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE PETITION OF CHEYENNE RIVER SIOUX TRIBE TELEPHONE AUTHORITY FOR ARBITRATION PURSUANT TO THE TELECOMMUNICATIONS ACT OF 1996 TO RESOLVE ISSUES RELATING TO AN INTERCONNECTION AGREEMENT WITH ALLTEL COMMUNICATIONS, INC.	)))))))	**ORDER FOR AND NOTICE OF HEARING** **TC08-122**

On October 21, 2008, Cheyenne River Sioux Tribe Telephone Authority (CRST) filed a petition for arbitration of certain unresolved terms and conditions of a proposed Interconnection and Reciprocal Compensation Agreement (Agreement) between CRST 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. CRST filed a list of unresolved issues consisting of:

(1) What are the appropriate definitions to be included in the Agreement between the Parties?
  (a) The definition of InterMTA traffic.
  (b) The definition of Local Traffic, Telecommunications Traffic, and Third Party Provider.
  (c) The definition of Wireline Local Calling Area.
  (d) Other definition differences.
(2) What is the appropriate scope of Reciprocal Compensation Traffic?
(3) What is the appropriate treatment of ISP bound traffic?
(4) What are the appropriate interconnection facilities between the Parties?
(5) Is the inclusion of SS7 messages appropriate?
(6) What is the obligation of the parties with respect to dialing parity?
(7) Should compensation for Telecommunications Traffic be symmetrical?
(8) What is the appropriate compensation rate for InterMTA traffic?
(9) 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?
(10) Are the reciprocal compensation rates for IntraMTA Traffic and the Traffic Factors proposed by CRST appropriate pursuant to 47 U.S.C. Section 252(d)(2)?
(11) What is the appropriate time frame for bringing claims for disputes arising under the Agreement?
(12) What is the appropriate effective date and term of the Agreement?

CRST requested the following relief:

A. Issuance of an Order requiring arbitration of any and all unresolved issues between CRST and Alltel;
B. Issuance of an Order directing CRST and Alltel to submit to this Commission for approval of an interconnection agreement reflecting:
(i) the agreed-upon issues between the parties to be included in the language of Exhibit B; and
(ii) the resolution of any unresolved issues in accordance with the positions and recommendations made by CRST 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 agreed to by the Parties) to the date on which the Commission approves the parties' executed interconnection agreement in accordance with Section 252(e) of the Act;

D. Issuance of an Order asserting this Commission retain jurisdiction over this arbitration until the parties have submitted an executed interconnection agreement for approval by this Commission in accordance with Section 252(e);

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 14, 2008, the Commission received a Response of Alltel Communications, Inc. to Petition for Arbitration of Cheyenne River Sioux Tribe Telephone Authority. Alltel set forth one additional issue for resolution:

(13) Language of Exhibit A to the Petition not directly disputed as part of the Petition should be used as that agreement formed the basis of the negotiations prior to the filing of the arbitration.

On December 4, 2008, the Commission received a Joint Proposed Procedural Schedule. At its meeting of December 9, 2008, the Commission voted to assess CRST a filing fee not to exceed $75,000.

At its regularly scheduled meeting of January 27, 2009, Commission Staff stated that there had been three changes made to the dates since it had been filed. In paragraph 2, January 15, 2009, was changed to January 25, 2009, in paragraph 3, January 29, 2009, was changed to February 9, 2009, and February 13, 2009, was changed to February 23, 2009. Commission Staff recommended approval. The Commission voted unanimously to approve the Joint Stipulation and Proposed Procedural Schedule. On June 9, 2009, the Commission received a Motion to Strike from Alltel. On June 15, 2009, the Commission received a Joint Stipulation and Proposed Procedural Schedule signed by the parties. At its regularly scheduled meeting of June 23, 2009, the Commission considered the Joint Stipulation and Proposed Procedural Schedule. CRST stated that there had been one change made since it had been filed. In paragraph 3a, June 22, 2009, was changed to June 24, 2009. Commission Staff recommended approval. The Commission voted unanimously to approve the Joint Stipulation and Proposed Procedural Schedule as amended. On June 25, 2009, Alltel filed a letter withdrawing its Motion to Strike.

In the Joint Stipulation and Proposed Procedural Schedule, the parties stipulated that they had resolved some of the issues. The remaining issues from CRST's Petition for Arbitration are:

(1) What are the appropriate definitions to be included in the Agreement;
(3) What is the appropriate treatment of ISP bound traffic;
(11) What is the appropriate time frame for bringing claims for disputes arising under the Agreement.

The remaining issue from Alltel's Responsive pleading is:

(13): Whether the language of Exhibit A to the Petition not directly disputed in negotiations should be used and Exhibit B rejected in whole.

The Commission has jurisdiction in this matter pursuant to SDCL Chapters 1-26 and 49-31, specifically 49-31-81 and 47 U.S.C. section 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 9:00 A.M. on July 15, 2009, in Room 413, State Capitol Building, 500 East Capitol, Pierre, South Dakota.

The issues to be determined by the Commission are the issues set forth by the parties in the Joint Stipulation and Proposed Procedural Schedule as listed above. 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 the parties' Joint Stipulation and Proposed Procedural Schedule 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 2nd 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: Melaine Kolbo

Date: 7/2/09

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Dustin M. Johnson

DUSTIN M. JOHNSON, Chairman

Steve Kolbeck

STEVE KOLBECK, Commissioner

Gary Hanson

GARY HANSON, Commissioner