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OCT 24 2006

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SOUTH DAKOTA PUBLIC
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October 24, 2006

Patricia Van Gerpen
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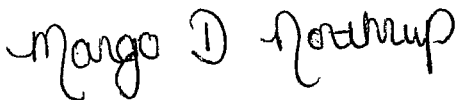
Re: Docket No. _____
In the Matter of the Petition of Venture Communications
Cooperative for Suspension or Modification of Local
Dialing Party Reciprocal Compensation Obligations

Dear Ms. Van Gerpen:

Attached you will find the original and one (1) copy of Venture Communications Cooperative's Petition for Suspension or Modification to be filed as referenced above.

Thank you for your professional courtesies.

Sincerely yours,



Darla Pollman Rogers
Margo D. Northrup

/mdb
Enclosures

cc:

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OCT 24 2006

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

SOUTH DAKOTA PUBLIC
UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF)
VENTURE COMMUNICATIONS COOPERATIVE)
FOR SUSPENSION OR MODIFICATION OF LOCAL)
DIALING PARITY RECIPROCAL COMPENSATION)
OBLIGATIONS)

Docket No. _____

PETITION FOR SUSPENSION OR MODIFICATION

OF LOCAL DIALING PARITY AND RECIPROCAL COMPENSATION OBLIGATIONS

Pursuant to Section 251(f)(2) of the Communications Act of 1934, as amended (the Act), and South Dakota Codified Laws SDCL § 49-31-80, Venture Communications Cooperative (Venture or Petitioner) hereby respectfully requests that the Public Utilities Commission of the State of South Dakota (Commission) grant a suspension or modification of Section 251(b)(3) and 251(b)(5) of the Act.

Section 251(b)(3) states that all local exchange carriers (LECs) have “[t]he duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays.”¹ The FCC’s regulation on this section states that “[a] LEC shall permit telephone exchange service customers within a local calling area to dial the same number of digits to make a local telephone call notwithstanding the identity of the customer’s or the called party’s telecommunications service provider.”²

¹ 47 U.S.C. §251(b)(3).

² 47 C.F.R. §51.207

Section 251(b)(5) states that all LECs have “[t]he duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.”³ The FCC has found that the major trading area (MTA) is the wireless provider’s “local” area for purposes of reciprocal compensation and that a wireless carrier must pay reciprocal compensation and not access charges when its customer calls a wireline customer within the same MTA.

Based on their interpretation of the Act and the FCC’s finding that the MTA is the “local” area for wireless carriers for reciprocal compensation purposes, some courts have found that a LEC also must pay reciprocal compensation to a wireless carrier for calls that originate and terminate within the MTA, even if the call is a toll call that the LEC hands off to the calling party’s presubscribed interexchange carrier (IXC). In the case of Venture, calls that terminate beyond the wireline local calling area but within Venture’s service territory, and calls that terminate beyond Venture’s service territory but within the MTA are handed off to the calling party’s presubscribed interexchange carrier.⁴ For these calls, Venture receives originating access charges from the interexchange carrier and the interexchange carrier receives compensation from the calling party. Venture does not pay reciprocal compensation to the terminating carrier, even if that carrier is a wireless provider, for such calls. Venture requests a modification of the reciprocal compensation requirement to the extent that it requires Venture to pay reciprocal compensation to wireless carriers for calls that are handed off to the calling party’s presubscribed interexchange carrier.

Also as a result of its interpretation of the Act and the FCC’s finding that the MTA is the “local” area for wireless carriers for the purpose of reciprocal compensation, the U. S. Court of Appeals for the Eighth Circuit has ruled that calls that originate and terminate within the MTA

³ 47 U.S.C. §251(b)(5).

⁴ The only exception to this is a few EAS arrangements Venture has with other wireline carriers.

are subject to the local dialing parity requirement and that such calls must be delivered at the LEC's expense to the wireless carrier's point of interconnection, even if that point is outside of the LEC's service territory. In the case of Venture, calls that terminate beyond the calling party's wireline local calling area and within the Venture service territory and calls that terminate beyond Venture's service territory and within the MTA are handed off to the calling party's presubscribed interexchange carrier. For these calls, the calling party must dial the call as a toll call and Venture does not pay to transport the call. Venture requests a modification of the dialing parity requirement to the extent that it requires Venture to allow its customers to dial toll calls as local calls and to the extent that it requires Venture to transport calls beyond the wireline local calling area.

Finally, the FCC has found that the reciprocal compensation requirement in Section 251(b)(5) imposes an obligation on carriers to pay reciprocal and symmetrical compensation.⁵ Venture requests a modification of this requirement and asks the Commission to order reciprocal compensation for wireless carriers based on their own forward-looking costs.

As demonstrated herein, the statutory criteria for the modifications requested are met. A grant of this Petition will permit the Commission to ensure that the public interest, convenience and necessity are not undermined.

SECTION 20:10:32:39 REQUIREMENTS

The following information is provided in accordance with Section 20:10:32:39 of the Commission's rules.

(1) The applicant is Venture Communications Cooperative, 218 Commercial Street, Highmore, SD 57345-0157, (605) 852-2224. The designated contacts are:

Randy Houdek, General Manager

⁵ 47 C.F.R. §51.711.

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(2) As of 2006, Venture had approximately 14,000 subscriber lines nationwide.

(3) Venture seeks to modify the dialing parity and reciprocal compensation obligations in 47 U.S.C. §251(b)(3) and (5) of the Act.

(4) Venture requests modification of the dialing parity requirement such that Venture is not required to provide local dialing and it is not required to transport traffic outside of its service territory or beyond the wireline local calling area. Venture also requests a modification of the reciprocal compensation requirements such that it is not required to pay reciprocal compensation on traffic terminating to a wireless carrier within the same MTA that is handed off to an IXC in accordance with Venture's wireline local calling areas. Venture also requests a modification of the symmetrical compensation requirement and requests that the Commission base compensation for wireless carrier's on the wireless carrier's forward looking cost study.

Venture also requests immediate temporary suspension of the 251(b)(3) and (5) requirements as described above pending this Commission's consideration of this request.

(5) Venture requests that the modification of Sections 251(b)(3) and (5) be effective on release of the Commission's order in this proceeding. Venture requests that the temporary suspension of Sections 251(b)(3) and (5) be effective immediately.

(6) The information supporting this petition is contained on pages 5 through 20 of this Petition.

(7) Venture requests that the Commission grant a temporary stay or suspension of the local dialing parity and reciprocal compensation requirements in Sections 251(b)(3) and (5) of the Act.

I. Summary

This Petition requests that the Commission exercise its authority to address the effect of local dialing parity and reciprocal compensation on the Petitioner's cooperative members. As a non profit cooperative telecommunications company, any negative financial impacts from these obligations flow directly back to its members. As demonstrated herein and in Exhibits 1 through 3 (incorporated herein by reference), without the modification, the Petitioner will experience substantial costs to implement local dialing parity and reciprocal compensation and a decline in revenues, rendering the provision of dialing parity and reciprocal compensation unduly economically burdensome. The requirements also will have a significant adverse economic impact on users of the Petitioner's telecommunications services. Accordingly, for the reasons provided herein, the Petitioner respectfully requests that the Commission grant its requested modification of local dialing parity and reciprocal compensation.

II. The Petitioner is Eligible to Seek this Relief

The Petitioner is a rural telephone company as defined by the Act and provides telecommunications services within South Dakota. Petitioner provides local exchange, exchange

access and other telecommunications services to subscribers within its South Dakota service area, with a total of approximately 14,000 subscriber lines. This service area encompasses sparsely populated localities, with only 2 lines per square mile.

The Petitioner satisfies the criteria set forth in Section 251(f)(2), which provides in pertinent part, that “a local exchange carrier with fewer than two percent of the Nation’s subscriber lines installed in the aggregate nationwide may petition a state commission for a suspension or modification”⁶ of the local dialing parity and reciprocal compensation requirements. Pursuant to Section 251(f)(2), the Commission shall grant a petition for suspension or modification to the extent that, and for such duration as, the Commission determines that such suspension or modification:

(A) is necessary –

- (i) to avoid a significant adverse economic impact on users of telecommunications services generally;
- (ii) to avoid imposing a requirement that is unduly economically burdensome; or
- (iii) to avoid imposing a requirement that is technically infeasible; and

(B) is consistent with the public interest, convenience, and necessity.⁷

Section 251(f)(2) of the Act requires the Commission to act on this application within 180 days after receipt. Pending such action, the Commission “may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.” 47 U.S.C. § 251(f)(2) and SDCL 49-31-80.

Petitioner has received a request for local dialing parity and reciprocal compensation that will be affected by this Petition from Alltel Communications, Inc. (Alltel). A Petition for Arbitration in connection with the interconnection negotiations with Alltel was filed on

⁶ 47 U.S.C. § 251(f)(2).

September 14, 2006. In addition, because of the ability of carriers to opt-in to any approved LEC interconnection agreement,⁸ all other wireless carriers operating in Venture's service area will be able to obtain local dialing parity and reciprocal compensation on the same basis approved in the agreement with Alltel. Accordingly, Petitioner has included the impact of the dialing parity and reciprocal compensation requirements for these carriers in its cost estimates.

III. Argument

A. The Criteria in Section 251(f)(2) for Granting Relief Are Met

1. Section 251(f)(2)(A)(i) Criteria is Met (Avoid Significant Adverse Economic Impact of Users of Telecommunications Services Generally) in Connection with Dialing Parity

A grant of this Petition will avoid a significant adverse economic impact on Petitioner's members and users of telecommunications services generally in South Dakota. As demonstrated herein and in Exhibits 1 through 3, without modification, Venture would be required to incur costs associated with facilities, stranded investment, jurisdictional shifts in expense and increased reciprocal compensation. These additional costs are detailed below and in Exhibits 1 through 3.

a. Transport costs associated with dialing parity

Dialing parity, as requested by Alltel, would impose a significant cost on Venture and its cooperative members because it would require Venture to either build transport facilities that currently do not exist or lease such facilities from others, both within the Venture service territory and beyond the Venture service territory. Currently, Venture's network consists of two distinct, non-contiguous networks. The Venture exchanges located in central South Dakota (Central network) are not connected to the Venture exchanges located in northeastern South

⁷ 47 U.S.C. §251(f)(2).

⁸ 47 U.S.C. §252(i).

Dakota (Northeastern network). The Venture network in central South Dakota includes Highmore, Harrold, Blunt, East and West Onida, Onida, Gettysburg, Hoven, Tolstoy, Seneca, Onaka, Selby, Bowdle, Roscoe, Ree Heights, Tulare, Hitchcock, Wessington, and Wessington Springs. The Venture network in northeastern South Dakota includes Sisseton, Rosholt, Britton, Langford, Pierpont, and Roslyn. Venture has no facilities between these two networks and calls between Venture customers in the two networks are routed to the originating caller's interexchange carrier (IXC).

Even within these two networks, calls between Venture's wireline local calling areas are toll calls handed-off to IXCs. For example, a call between Sisseton and Pierpont is a toll call. Thus, a call originated by a Venture subscriber in Sisseton and terminating to a subscriber in Pierpont is handed-off to an IXC. Venture's facilities would have to be upgraded if all such calls were local calls.

Moreover, Venture does not have the facilities in place that Alltel's request would require. Through Alltel's request for local dialing parity, and the 8th Circuit's apparent interpretation of that requirement, Venture would be required to transport a call from its customer to an Alltel customer as a local call to any point within the MTA, whether that point is within the Venture customer's wireline local calling area, within Venture's service territory, or beyond Venture's service territory, as long as the call is to a number rated to the Venture local calling area. This is reflected in Alltel's proposed Section 5.4 of the Interconnection agreement, in which Alltel proposes the following language:

For any telephone number assigned to Alltel that contains a NPANXX assigned to a rate center associated with a local or EAS dialing plan or similar program, Venture will route all land-to-mobile traffic to Alltel utilizing End User dialing patterns undifferentiated from those provided to any carrier's number assigned to the same rate center.

It also is reflected in Alltel's efforts to unilaterally change the local exchange routing guide (LERG) so as to rate certain Alltel NPANXX's to Venture wireline local calling areas, even though the LERG dictates the routing of calls to those NPANXX's beyond Venture's wireline local calling area. Usually, calls are rated and routed to the same rate center. Here, Alltel is separating call rating and routing. Because Alltel has rated the number to the wireline local calling area, the number looks like a local number, and therefore, Alltel argues that Venture must allow local dialing and pay for transport. However, because Alltel's POI is not in the same wireline local calling area as the number, Alltel seeks to force Venture to pay for transport to a distant location (i.e. a location beyond the wireline local calling area). Alltel has not stated where its POI will be and, therefore, Venture has assumed that the POI could be anywhere within the MTA – even a point beyond Venture's service territory. As shown, currently, calls that are transported to distant locations are dialed as toll calls and are handed-off by Venture to an IXC. Venture seeks a modification of dialing parity that would require Venture to change this practice.

Exhibit 1 shows the estimated cost to implement local dialing parity if Venture must bear the cost of transporting calls to a distant location, as requested by Alltel. Venture has assumed that it can expect to receive requests for dialing parity from the three (3) wireless carriers (Verizon Wireless, Alltel, and RCC Wireless) currently operating within its service territory and two additional wireless carriers.⁹

Exhibit 1 contains estimates for the cost of transport, which essentially is the cost of installing DS1 direct connections to the wireless carriers. The number of additional DS1s that would be needed was based on the increase in local traffic that would result from making all

⁹ There are a number of wireless carriers licensed to provide service in at least part of Venture's service territory that currently are not actively marketing service, including T-Mobile and Cingular. For the purposes of the cost analysis attached to this Petition, Venture assumed that two additional wireless carriers will begin active operations in Venture's service territory.

existing land-to-mobile toll calls that originate and terminate in Venture's service territory as local calls. Venture prepared scenarios to estimate the cost of transport to reflect the range of POIs that the wireless carriers could select, namely, a POI within the Venture service territory; a POI outside of the Venture service territory but within the MTA and within South Dakota; and a POI outside of the Venture service territory but within the MTA and outside of South Dakota. Venture's scenarios take into consideration the fact that the carriers have their wireless switching equipment in separate locations; their presence in the Venture service territory is different; and Alltel and Verizon Wireless have POIs in Venture's service territory, while RCC does not.

In scenario 1 (Exhibit 1), Venture calculated the cost to transport calls to Alltel, Verizon Wireless and RCC Wireless as local calls, which currently are handed off to an IXC as a toll call, assuming a POI within Venture's service territory. Based on the wireless carriers' existing POIs in Venture's service territory and the location of their operations, Venture assumed that Alltel's POI would be in the Central network; Verizon Wireless' POI would be in the Central network; and RCC's POI would be in the Northeast network. Venture also assumed that the wireless carriers would have at least one block of numbers rated as local in each of the Venture wireline local calling areas where they provide wireless service.

Since Venture does not have facilities between its Central and Northeast networks, Venture would have additional costs to transport calls from the Northeast to Alltel's POI in the Central network. Based on the estimated increase in minutes of use if toll calls are now local calls, Venture estimates that it will need to lease four (4) DS1s to handle the increase in local traffic originating with Venture customers in the Northeast network and terminating to Alltel customers in the Central network, at a cost of \$37,368 per year or \$0.22 per line per month.

In addition, Venture estimates that it would need 3 DS1 cards within its network to handle the increase in local traffic originating with Venture customers and terminating beyond the wireline local calling area to the wireless customers of Alltel and RCC Wireless in the Northeast network. These additional facilities would be necessary because Venture's Northeast network is not a tandem network and, therefore, facilities would be necessary to transmit calls between wire centers in the Northeast network. Venture estimates that these additional transport facilities would be a one time cost of \$1500.

In scenario 2 (Exhibit 1), Venture estimated the cost of transport assuming the wireless carriers selected a POI within the MTA and within the state of South Dakota. For the purpose of scenario 2, Venture assumed a POI at South Dakota Network in Sioux Falls, South Dakota for five (5) wireless carriers (the three wireless carriers currently operating in Venture's service territory and two other carriers that are licensed and not yet operating).¹⁰ Venture determined the number of trunks that would be needed based on the estimated increase in local minutes of use from Venture subscribers to wireless carriers. This estimate was derived by determining the average local minutes of use of Venture subscribers who currently are able to call wireless subscribers as local calls and assuming that all Venture subscribers would have the same average minutes of use to wireless carriers. Each wireless carrier's traffic was separated onto individual DS1s. The standard SDN transport cost was applied to determine the cost of the DS1s from Venture to SDN. The total transport cost under this scenario would be \$204,840 per year or \$1.22 per line per month.

In scenario 3 (Exhibit 1), Venture estimated the cost of transport assuming Alltel and Verizon Wireless selected a POI in Sioux Falls, South Dakota and the other National or Regional

¹⁰ Venture assumes that if transport costs are shifted to Venture, additional wireless carriers will take advantage of this benefit and increase their operations in Venture's territory.

wireless carriers selected a POI in Minneapolis, Minnesota or other cities in the Minneapolis MTA. This scenario essentially adds additional charges for facilities from Sioux Falls to the wireless carriers' POI outside of South Dakota to the charges shown in scenario 2 for transport to Sioux Falls. The SDN facility charges and transport charges associated with this scenario would be \$497,153 per year or \$2.96 per line per month.

Venture notes that this issue is similar to the transport issue presented to this Commission in connection with the LNP Suspension Proceedings. In those Proceedings, Venture and the other LEC Petitioners demonstrated that the cost of transporting ported calls beyond the LEC's service territory would increase the cost of LNP. The LECs also demonstrated that the issue of transport is pending before the FCC in the Petition for Declaratory Ruling filed by Sprint Corporation.¹¹ The FCC solicited further comments on the Sprint Petition in the Intercarrier Compensation Proceeding,¹² however, the matter is still pending. Further, in interpreting the dialing parity requirement, the Eighth Circuit Court acknowledged that the issue of transport is pending before the FCC and that the FCC's decision may require the Court to "revisit" the issue. In the LNP cases, the Commission granted the Petitioners' Petitions in part because of the cost of transport and in part because of the uncertainty of the final resolution of this issue at the FCC. Just as the Commission found that the cost of transport and the uncertainties associated with this issue justified grant of the LNP Petitions, the Commission should so find in connection with this request for modification of the dialing parity requirement.

b. Jurisdictional cost shifts associated with dialing parity

¹¹ *In the Matter of Sprint Corp. Petition for Declaratory Ruling Regarding the Routing and Rating of traffic by ILECs*, CC-Docket 01-92, Petition of Sprint, May 9, 2002 ("Sprint Petition").

¹² *Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, *Further Notice of Proposed Rulemaking* (2005).

As shown in Exhibit 2 (page 1), Alltel's dialing parity request would result in a reduction in toll minutes and an increase in local minutes which would shift more of the cost of Venture's facilities to the local jurisdiction. As a result, costs which currently are recovered through interstate and intrastate access charges would have to be recovered through local rates. Assuming transport would be provided as modeled in scenario 1, \$113,837 would be shifted to the local jurisdiction, or \$0.68 per line per month. Under scenarios 2 and 3, \$143,750 would be shifted to the local jurisdiction, or \$0.86 per line per month. See Exhibit 2, page 2.

c. Stranded investment associated with dialing parity

Implementing local dialing parity as requested by Alltel would result in stranded investment for Venture. As shown in Exhibit 3, Venture estimates that it would have stranded investment of \$39,947 if Alltel terminates its current direct connections and establishes only 1 direct connection for the origination and termination of all traffic.

d. Increase in reciprocal compensation expense associated with dialing parity

As shown in Exhibit 3, implementing local dialing parity as requested by Alltel would increase Venture's reciprocal compensation expense because of the increased number of local minutes. If the reciprocal compensation rate paid to wireless carriers is \$0.049 (which is the amount of compensation determined in Venture's forward looking cost study) Venture's reciprocal compensation expense would increase by \$476,791, or \$2.84 per line per month. If the reciprocal compensation rate paid to wireless carriers is \$0.009000 (which is the current reciprocal compensation rate between the parties), the increase in Venture's reciprocal compensation expense would be \$87,337, or \$0.52 per line per month.

The cumulative impact of these factors would be a substantial increase in local service expenses which could only be recovered from local ratepayers, either by increasing local rates or decreasing local services.

2. Section 252(f)(2)(A)(i) Criteria is Met (Avoid Significant Adverse Economic Impact of Users of Telecommunications Services Generally) in Connection with Reciprocal Compensation

Alltel requests reciprocal compensation on all calls originating from a Venture subscriber and terminating to an Alltel subscriber within the MTA, even those calls that are handed-off to an IXC. Reciprocal compensation, as requested by Alltel, would have a significant adverse economic impact on users of telecommunications services generally because it would significantly increase Venture's expenses. As indicated, Venture receives originating interstate or intrastate access charges from interexchange carriers for calls handed-off to them. However, implementing reciprocal compensation as requested by Alltel would require Venture to pay reciprocal compensation on intraMTA calls that are handed-off to IXCs. Venture is conducting a study to determine the percentage of toll calls that are intraMTA. Once this study is complete, Venture will supplement this Petition with an estimate of the increase in its reciprocal compensation expense if it must pay reciprocal compensation to Alltel and the other wireless carriers for such calls.

Symmetrical compensation, as requested by Alltel, also would have a significant adverse economic impact on users of telecommunications services generally because it would significantly increase Venture's reciprocal compensation expense. Venture believes that the cost of call termination for Alltel and other wireless carriers is significantly less than Venture's cost, based on the fact that wireless carriers do not incur the same costs as wireline carriers. For example, switching costs for wireless carriers on a per minute basis are much less than for rural

wireline carriers, in part because rural wireline switches serve much smaller geographic areas. South Dakota law also imposes additional network requirements on wireline carriers for survivable ring networks. See SDCL §49-31-59.1 and §49-31-60. This results in additional costs to wireline carriers that wireless carriers do not incur. In fact, Venture believes that the forward looking cost of termination for wireless carriers is more similar to Qwest's rate for transiting traffic, which is \$0.003123 per minute. Venture bases this assumption on the fact that the networks of wireless carriers are more similar to Qwest's transiting service network.

The impact on Venture of the symmetrical compensation requirement will be based, in part, on the percentage of current toll calls that are intraMTA as found in the study referenced above. Accordingly, once this study is complete, Venture will supplement this Petition with an estimate of the harm attributable to the symmetrical compensation requirement. However, even with this information, a more accurate calculation of the harm caused by symmetrical compensation is not possible until Alltel submits its own forward-looking reciprocal compensation cost study.

3. Section 251(f)(2)(A)(ii) Criteria is Met (Avoid Imposing a Requirement that is Unduly Economically Burdensome)

A grant of a modification of the local dialing parity and reciprocal compensation requirements would avoid imposing requirements that are unduly economically burdensome to the Petitioner and its members. As a small telephone company, the Petitioner has a limited customer base over which to spread its costs. As noted in Exhibits 1 through 3, the costs associated with implementing local dialing parity and the increase in Venture's expenses associated with local dialing parity and reciprocal compensation are significant.

An increase in local rates would make Petitioner's service offering less competitive with the services provided by other carriers, such as wireless carriers. Wireless carriers already enjoy a number of competitive advantages over wireline carriers. For example, because of their FCC licensed service areas, wireless carriers have larger local calling areas, larger service territories and more potential customers to absorb their capital and operating cost. By increasing the cost of service to Venture's customers, local dialing parity and reciprocal compensation as requested by Alltel would make wireline services even less competitive with wireless services.

In addition, if local rates are increased, some segment of Petitioner's subscribers may discontinue service or decrease the number of lines to which they subscribe. The resulting reduction in line count would increase further the per-subscriber cost of these requirements, which, in turn, could lead to more rate increases followed by additional losses in access lines.

Moreover, by providing excessive compensation to wireless carriers, if compensation is symmetrical, Venture would be subsidizing the services provided by Alltel and the other wireless carriers, which would confer a further competitive benefit on those carriers.

4. Section 251(f)(2)(B) Criteria is Met (Consistent with Public Interest, Convenience, and Necessity)

A grant of this Petition will serve the public interest by preserving fair competition without imposing undue burdens on Venture or its subscribers. Section 251(f)(2)(B) provides that the Commission is to determine that the requested suspension or modification "is consistent with the public interest, convenience and necessity".¹³ As demonstrated herein, without the modifications requested by Venture, the dialing parity and reciprocal compensations requirements would impose significant costs on Venture, which ultimately would be borne by its subscribers. In addition, there would be an adverse impact on competition. On the other hand,

¹³ 47 U.S.C. § 251(f)(2)(B).

the modifications requested by Venture would promote fair competition by placing all competitors, both wireless and wireline carriers, on an equal footing.

The modifications requested by Venture, other than the modification of symmetrical compensation, would preserve the current dialing parity and reciprocal compensation relationships between the carriers; namely, Venture currently does not transport calls outside of the wireline local calling area as local calls and Venture does not pay reciprocal compensation on calls handed off to IXCs. Without the modifications requested, this would change only for wireless carriers. Thus, the modifications requested by Venture would ensure that all competitors—both wireline and wireless carriers—are treated the same. Accordingly, by granting the modifications requested, all competitive carriers would be treated the same and fair competition would be advanced.

The request for modification of the dialing parity requirement also is in the public interest because it would prevent a significant and adverse impact on the Local Exchange Carrier Association (LECA) pool that otherwise would occur. As the Commission is aware, nearly all of the rural local exchange carriers in South Dakota, including Venture, participate in the LECA pool in order to ensure that intrastate toll service for all rural subscribers can be provided at reasonable rates. However, the jurisdictional shifts that would result from dialing parity as requested by Alltel would jeopardize the continuation of the LECA pool. As shown in Exhibit 3, the loss to the LECA pool could be \$330,844 for Venture alone. If other rural LECs in South Dakota also would be required to implement dialing parity similar to that requested by Alltel, then the impact to the LECA pool could be ten times greater, or more than \$3,000,000. A LECA pool shortfall of this magnitude likely would mean that the LECA members would not be able to

meet their intrastate revenue requirement without a significant increase in their intrastate access rates.

Granting the Petition also would not impede the provision of wireless service. As indicated, the modifications requested by Venture would, essentially, preserve the conditions under which wireless carriers have been operating since the implementation of the Telecommunications Act of 1996. It was in this environment that there has been unprecedented investment in cell phone tower sites in South Dakota and significant growth in the number of wireless subscribers. Accordingly, there is no evidence that a continuation of the current practices would impede wireless service.

Without the modifications, however, wireless carriers would receive additional competitive advantages over wireline carriers at the expense of Venture's subscribers. As demonstrated herein, implementing local dialing parity and reciprocal compensation as requested by Alltel would impose significant costs on Venture and, ultimately, on its subscribers. This includes the cost of facilities that are not necessary for wireline to wireline calls.¹⁴ In effect, Venture's subscribers would be subsidizing Alltel's provision of wireless service. This cannot be considered fair competition or "in the public interest."

While Venture's request for a modification of the symmetrical compensation requirement is not a continuation of current practice, this request also is in the public interest. As demonstrated, a symmetrical compensation rate based on Venture's forward-looking costs would provide excessive compensation to wireless carriers. As a result, Venture, and its subscribers would be subsidizing the services provided by Alltel and the other wireless carriers, which would confer a further competitive benefit on those carriers.

Accordingly, grant of the requested modifications is consistent with the public interest, convenience and necessity.

**5. Request for Immediate Suspension Pending Consideration of this Petition
is Warranted and Necessary to Serve the Public Interest**

Petitioner requests immediate suspension of the 251(b)(3) and (5) requirements as discussed herein, pending this Commission's consideration of this request in order to maintain the status quo until the Commission acts on this Petition. An immediate suspension is necessary because the dialing parity and reciprocal compensation requirements for which Venture requests modification are part of a separate arbitration petition before this Commission and the two proceedings have different statutory timeframes for resolution. Thus, Section 251(f)(2) provides that the Commission is to act on this instant Petition within 180 days, or no later than April 23, 2007.¹⁵ However, pursuant to Section 252(b)(4)(C) of the Act,¹⁶ the arbitration is to be concluded not later than nine months after the day the LEC received Alltel's request for negotiations. Venture received the original request for negotiations on October 21, 2005. Thereafter, the Parties extended the arbitration window on March 28, 2006, May 17, 2006, June 6, 2006, July 14, 2006, and August 29, 2006. Therefore, the date applicable to Alltel's request for negotiation is April 17, 2006. By statute, the arbitration shall be concluded by January 17, 2007. In order to ensure that Venture is not required to incur expenses for requirements as a result of the arbitration proceeding, which the Commission may ultimately modify for Venture, an immediate suspension is necessary.

¹⁴ It should be noted that Western Wireless, now Alltel, has filed a petition at the FCC arguing that rate-of-return regulation should be eliminated for rural carriers like Venture, in part, because they are inefficient. However, it is Alltel that wants to force Venture to put in place inefficient facilities in the name of local dialing parity.

¹⁵ 47 U.S.C. § 251(f)(2)

¹⁶ 47 U.S.C. §252(b)(4)(C).

An immediate suspension also is necessary because it appears that Alltel intends to circumvent the interconnection process and try to force Venture to implement its preferred method of dialing parity by unilaterally changing the LERG to require Venture to transport traffic beyond its wireline local calling areas. Accordingly, the Commission should preserve the status quo and grant an immediate suspension.

Conclusion

As demonstrated, Petitioner has met the criteria set forth in 47 U.S.C. § 251(f)(2)(A) and the suspension requested in this proceeding is consistent with the public interest, convenience and necessity requirement set forth in 47 U.S.C. § 251(f)(2)(B). Accordingly, the Commission must grant the petition for suspension or modification.

Petitioner requests modification of the dialing parity requirement such that Venture is not required to provide local dialing and it is not required to transport traffic outside of its service territory or beyond the wireline local calling area. Petitioner also requests a modification of the reciprocal compensation requirements such that it is not required to pay reciprocal compensation on traffic terminating to a wireless carrier within the same MTA that is handed off to an IXC in accordance with Venture's wireline local calling areas. Petitioner also requests a modification of the symmetrical compensation requirement and requests that the Commission base compensation for wireless carrier's on the wireless carrier's forward looking cost study.

Petitioner also requests immediate temporary suspension of the 251(b)(3) and (5) requirements as described above pending this Commission's consideration of this request.

WHEREFORE, Petitioner respectfully requests the Commission to:

(A) Issue an interim order that modifies the requirements of 47 U.S.C. §251(b)(3) and (5) as described above until after entry of a final order herein;

(B) Issue a final order that grants a permanent modification of Petitioner's obligations in 47 U.S.C. §251(b)(3) and (5) of the Act, as described above; and

(C) Grant Petitioner such other and further relief that may be proper.

Accordingly, the Petitioner respectfully requests that the Commission grant this Petition.

Dated this 24th day of October, 2006.

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EXHIBIT 1

CONFIDENTIAL

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EXHIBIT 2

CONFIDENTIAL

[2]

CONFIDENTIAL

[3]

EXHIBIT 3