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May 24, 2006

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Ms. Patty Van Gerpen, Executive Director
South Dakota Public Utilities Commission
State Capitol Building
500 East Capitol Ave.
Pierre, SD 57501

RE: Docket TC06-043, (In the Matter of the Approval of Reciprocal Compensation
Agreement between James Valley Cooperative Telephone Company and Alltel
Communications, Inc.)

Dear Ms. Van Gerpen:

The Golden West Companies¹ respectfully submit this letter in comment on the above referenced matter and in response to the public notice contained in the Commission's "Weekly Filings" report for the period of May 4, 2006 through May 10, 2006.

As an initial matter, the Golden West Companies join in the comments submitted to the Commission in this docket by the South Dakota Telecommunications Association ("SDTA") through the letter from Mr. Richard D. Coit, Executive Director and General Counsel for the SDTA, to Ms. Van Gerpen of today's date. Furthermore, the Golden West Companies concur and join in the comments submitted to the Commission by Venture Communications Cooperative through the letter of this same date from their counsel, Ms. Darla Pollman Rogers. The concerns expressed in both letters are shared by the Golden West Companies.

With regard to the second subject addressed in the SDTA comments relating to the establishment of a single point of interconnection ("POI") outside of the incumbent local exchange carrier's service area, and the apparent undertaking by James Valley Cooperative Telephone Company ("James Valley") to accept the responsibility for transport of originating traffic to a POI outside of James Valley's service area, the Golden West Companies concur with SDTA's position that rural incumbent local exchange carriers ("RLECs") are not obligated by the Telecommunications

¹ The affiliated companies are: Armour Independent Telephone Co., Bridgewater-Canistota Independent Telephone Co., Golden West Telecommunications Cooperative, Inc., Kadoka Telephone Co., Sioux Valley Telephone Company, Union Telephone Company of Hartford and Vivian Telephone Company (collectively referred to herein as the "Golden West Companies").

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Act of 1996 or the implementing regulations promulgated by the FCC to deliver originating traffic to a POI outside of the RLEC's service area.

The FCC had the opportunity to resolve this transit service issue had the FCC chosen to issue a report and order establishing rules to implement a unified approach to intercarrier compensation in connection with the *Inter-carrier Compensation NPRM*.² However, the FCC did not do so. Instead, on March 3, 2005, it released the *Further Notice* in response to the *Inter-carrier Compensation NPRM*.³ In requesting additional comments, the FCC specifically requested "comment on issues relating to the regulation of transit services and additional CMRS compensation issues." *Further Notice*, para. 4.

The following statement by the FCC, found in the *Further Notice* at para. 87, explains that having not resolved such issues, the FCC sought additional comment thereon in the *Further NPRM*.

In the *Inter-carrier Compensation NPRM*, the Commission solicited comment on whether an incumbent LEC should be obligated to bear its own costs of delivering traffic to a single POI *when that POI is located outside the calling party's local calling area*. Alternatively the Commission asked whether a carrier should be required to interconnect in every local calling area or pay the incumbent transport and/or access charges if the location of the single POI requires transport beyond the local calling area. (emphasis added).

The following statement found in para. 91 of the *Further Notice*, succinctly explains that the FCC has provided no such guidance.

The comments confirm that issues related to the location of the POI and the allocation of transport costs are some of the most contentious issues in interconnection proceedings. [footnote omitted] In particular, the record suggests that there are a substantial number of disputes related to how carriers should allocate interconnection costs, particularly when the physical POI is located outside the local calling area where the call originates or when carriers are indirectly interconnected. *These disputes arise in part because of a lack of clarity among the various rules governing the costs of interconnection facilities and the relationship of those rules to the single POI rule.*

² *Developing a Unified Inter-carrier Compensation Regime*, CC Docket No. 01-92, Notice of Proposed Rulemaking, 16 FCC Rcd 9610 (2001) (*Inter-carrier Compensation NPRM*).

³ *Developing a Unified Inter-carrier Compensation Regime*, CC Docket No. 01-92, Further Notice of Proposed Rulemaking, FCC-05-33 (2005) (*Further Notice*).

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Thus, there should be no mistake that the provision by an RLEC of a POI outside of its local service area is not required by Federal law or FCC regulations. Similarly, there is no requirement that an RLEC has the responsibility to bear the cost of transporting originating traffic to such a POI.

The Golden West Companies recognize that Section 252(a)(1) of the Telecommunications Act anticipates that carriers may voluntarily negotiate agreements to provide services not required under the Act. Specifically, such section provides in pertinent part: "Upon receiving a request for interconnection . . . pursuant to section 251, an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers *without regard to the standards set forth in subsections (b) and (c) of section 251.*" (emphasis added). Any negotiated agreement, however, is subject to the State Commission approval process outlined in Section 252(e) of the Act and the standards for review set forth in that Section. Further, it must be noted that the existence and potential approval by this Commission of such a voluntarily negotiated agreement should not be viewed as having a precedent or impact on other rural incumbent local exchange carriers operating in this State.

Thank you for the opportunity to submit these comments in this matter.

Respectfully Submitted,

CUTLER & DONAHOE, LLP



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MAM/jlh

cc: Mr. Denny Law
Mr. Paul Schudel