

BEFORE THE SOUTH DAKOTA PUBLIC UTILITIES COMMISSION

In the Matter of the Petitions )  
of Local Exchange Carriers )  
for Modification of Section 251 (b)(2) ) Docket No. TC08-06 through TC08-27  
of the Communications Act of 1934, )  
as amended )

Motion for Modification of the Stipulation for Procedure Schedule

Come now the Local Exchange Carriers (LECs) listed on attached Exhibit A and respectfully request the South Dakota Public Utilities Commission (Commission) for a modification of the hearing dates and discovery restrictions contained in the Stipulation for Procedural Schedule. This Motion is based on the following grounds.

I. BACKGROUND

1. On February 7<sup>th</sup> and 8<sup>th</sup>, LECs, listed on Exhibit A, filed individual Petitions (TC08-06 through TC08-27) with the Commission pursuant to 47 U.S.C. § 251 (f)(2), and SDCL § 49-31-80, for a suspension and modification of the intermodal number portability requirement in Section 251 (b)(2) of the Communications Act of 1934, as amended.

2. Intervention in all dockets was granted to Alltel Communications, LLC (Alltel), Verizon Wireless LLC (VAW), CommNet Cellular License Holding LLC, Missouri Valley Cellular, Inc., Sanborn Cellular, Inc., Easter South Dakota Cellular, Inc. d/b/a Verizon Wireless (Verizon Wireless), Midcontinent Communications (Midcontinent), and South Dakota Telecommunications Association (SDTA). MCC Telephony of the Midwest, Inc., d/b/a Mediacom (Mediacom) and Sprint Communications Company, LP (Sprint) were granted intervention in two of the dockets with respect to VoIP LNP.

3. On April 23, 2008, all parties and staff entered into a Stipulation for Procedural Schedule that extended the deadline by which a decision must be made upon the Petitions by the

Commission and temporarily extended the date by which LECs are obligated to implement LNP. The primary purpose of the Stipulation was to allow the Commission to hold this matter in abeyance so that the Petitioners and each Wireless Carrier can engage in negotiations to seek to resolve the transport of calls to port-out numbers from a Petitioner's local calling areas to the Wireless Carrier's network.

## II. ADDITIONAL TIME NEEDED FOR SETTLEMENT NEGOTIATIONS

4. The Petitioners and Wireless Carriers have engaged in good faith negotiations, but the negotiations are not complete. Attorneys for Petitioners and the Wireless Carriers have had weekly conference calls with SDN. Testing is nearly completed, and SDN has committed to having a proposal to the Wireless Carriers sometime during the week of June 23-27. Thereafter, the parties will need further time to complete negotiations.

5. At least one of the Wireless Carriers has recognized the need for further time to continue and conclude negotiations. On or about June 5, 2008, Verizon proposed extending the dates contained in the Stipulation by approximately 30 days in order to allow the parties to continue negotiations.

6. Initially, all parties in the docket were in agreement with the Revised Procedural Schedule, with the exception of Alltel. Alltel refused to agree to the Revised Procedural Schedule unless and until an agreement can be reached concerning migration of type 1 number blocks to Alltel.

7. The parties agreed to extend the date of service of the initial round of discovery from June 9 to June 11 for Petitioners, Verizon, and Alltel, and to June 13 for other parties in the dockets. The purpose of the extension of discovery deadlines as to the wireless carriers was to afford Petitioners and Alltel the opportunity to reach an agreement on the type 1 number issue.

8. Alltel agreed to a revised procedural schedule for all LECs except the three that have type 1 numbers. Even though Verizon proposed the revised procedural schedule, following consultation between Alltel and Verizon, Verizon refused to agree to its revised procedural schedule for any Petitioners on the afternoon of June 11, which was the due date of discovery.

9. Alltel/Verizon (jointly) served discovery on Petitioners on June 11, and Petitioners served discovery on Alltel and on Verizon on June 11. Other Intervenors served discovery on June 14, pursuant to agreement among the parties. Without modification of the Procedural Schedule by this Commission, discovery responses and prefiled testimony will be due before settlement negotiations can be completed. In the event the parties reach a settlement on all or part of the outstanding issues in these dockets, discovery responses and prefiled testimony may not be necessary, or may be significantly limited.

### III. NEW CIRCUMSTANCES

10. On June 13, 2008, Verizon and Alltel filed for FCC approval of the transfer of control of Alltel to Verizon.

11. While Petitioners made some inquiries in the initial round of discovery about Verizon's acquisition of Alltel (Acquisition), the questions were based upon press releases, not on the FCC filing by Verizon.

12. The Acquisition could have significant impacts on Petitioners and on the current dockets. For example, if there is a change in the configuration of traffic of the two largest wireless carriers in the state, Petitioners may need to amend their petitions, or at a minimum, change the focus of direct testimony in these dockets.

13. The current Procedural Schedule does not have sufficient flexibility to allow Petitioners to review the Acquisition application (which is almost 400 pages in length) and

respond to changes that will undoubtedly occur as a result of the Acquisition. Under the current Schedule, responses to the first round of discovery and pre-filed testimony are due simultaneously. Thereafter, additional discovery and testimony are limited to new matters raised in direct testimony.

14. At the time the parties entered into the current Procedural Schedule, Petitioners were unaware of the Acquisition and unaware of the need for additional discovery opportunities to further explore this issue. Petitioners were likewise unaware of the potential need to revise or submit additional testimony to address how the Acquisition will affect these dockets.

15. Petitioners would also point out that in the Procedural Schedule, the hearing date was to be in mid-August. Subsequently, the parties agreed to hearing dates of September 4 and 5.

16. In light of all of these circumstances that have occurred since the parties agreed to the current Procedural Schedule, Petitioners respectfully request that the Procedural Schedule be modified as follows:

(a) Responses to discovery for Petitioners and Wireless Carriers are due on July 3; responses to discovery for Petitioners and other Intervenors are due July 8.

(b) Direct testimony and exhibits are to be filed on July 15. This will give Petitioners the opportunity to review Verizon and Alltel's Acquisition filing at the FCC and responses to interrogatories regarding the Acquisition before testimony is filed.

(c) Intervenors may serve additional discovery on Petitioners by July 22.

(d) Petitioners shall respond to Intervenors additional discovery by July 29.

(e) Intervenors may serve rebuttal testimony by August 5.

(f) Petitioners may serve additional discovery by August 12, which may include additional discovery on the Acquisition and Verizon's FCC filing.

(g) Intervenors shall respond to Petitioners additional discovery by August 19.

(h) Petitioners may file reply testimony by August 26, including additional testimony in response to the Acquisition.

(i) Hearing will be September 4-5, as previously agreed by the parties.

17. Based on the impending due dates, Petitioners request that this Motion be determined on an expedited basis.

For all of the foregoing reasons, Petitioners respectfully request the Commission to modify the dates and restrictions in the Procedural Schedule, as set forth herein.

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## Exhibit A

- TC08-006 Alliance Communications Cooperative, Inc., Splitrock Properties, Inc. and Hills Telephone Company
- TC08-007 Kennebec Telephone Company
- TC08-008 Faith Municipal Telephone Company
- TC08-009 Western Telephone Company
- TC08-010 Sioux Valley Telephone Company
- TC08-011 Venture Communications Cooperative, Inc.
- TC08-012 RC Communications, Inc., and Roberts County Telephone Cooperative Association
- TC08-013 Beresford Municipal Telephone Company
- TC08-014 Golden West Telecommunications Cooperative, Inc.
- TC08-015 Vivian Telephone Company
- TC08-016 Kadoka Telephone Company
- TC08-017 Brookings Municipal Utilities d/b/a Swiftel Communications
- TC08-018 Union Telephone Company
- TC08-019 Armour Independent Telephone Company
- TC08-020 McCook Cooperative Telephone Company, Tri-County Telcom
- TC08-021 Bridgewater-Canistota Independent Telephone Company
- TC08-022 Valley Telecommunications Cooperative Association
- TC08-023 Midstate Communications, Inc.
- TC08-024 Interstate Telecommunications Cooperative, Inc.
- TC08-025 West River Cooperative Telephone Company
- TC08-026 Stockholm-Strandburg Telephone Company
- TC08-027 Santel Communications Cooperative, Inc.