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June 27, 2008

E-FILING

Patricia Van Gerpen
South Dakota Public Utilities Commission
Capitol Building, 1st Floor
500 East Capitol Avenue
Pierre SD 57501-5070

RE: In the Matter of the Petition of Local Exchange Carriers for Modification
of Section 251(b)(2) of the Communications Act of 1934, as amended
Dockets TC08-006 – TC08-027 GPGN File No. 05925.0048

Dear Ms. Van Gerpen:

Attached please find Alltel's Opposition to the Motion for Modification of the Stipulation for Procedure Schedule. By copy of same, counsel have been served electronically.

If you have any questions, please contact me.

Sincerely,



Talbot J. Wiczorek

TJW:klw
Enclosure

c: Service List via e-mail
Client

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

**In the Matter of the Petition of))
Local Exchange Carriers)) Docket Nos. TC08-06 through TC08-027
for Modification of Section 251(b)(2)))
of the Communications Act of 1934,))
as amended))**

**ALLTEL’S OPPOSITION TO MOTION FOR MODIFICATION OF THE
STIPULATION FOR PROCEDURE SCHEDULE**

COMES NOW Alltel Communications, LLC. (“Alltel”), and by and through its counsel, hereby submits its Opposition to Motion for Modification of the Stipulated for Procedure Schedule submitted by the rural carriers in Docket Numbers TC08-006 through TC08-027 (hereinafter collectively referred to as “RLECS”).

PRELIMINARY STATEMENT

The RLECs’ Motion for continuance of the agreed upon procedural schedule should be denied for numerous reasons. Given the short period of time to respond to this Motion, Alltel emphasizes three reasons that the motion should be denied and the stipulated scheduled followed.

1. The Motion is based on a faulty conclusion that any merger between Alltel and Verizon is relevant or likely to lead to the discovery of admissible evidence in this case. The merger has no relevance to these proceedings and no information that can be gleaned regarding the merger will be admissible in this case. While the RLECs obviously seek to expand the scope of this proceeding beyond that allowed by Section 251(f) of the Act, this case only concerns the RLECs requests for a suspension of its obligation under law and the determination of suspension turns solely on the economic status of the RLECs and their customers not on potential competitors. See 47 USC Section 251(f)(2).

2. The RLECs' contention that there have been settlement discussions is a major overstatement of the facts. No settlement proposal has yet to be presented in the discussions other than the one suggested by the CMRS carriers. The sole focus of the so called discussions has been focused on whether SDN can technically transport a call to a ported number. No test was necessary to determine that a transport network can transport a call to a ported number. It happens everyday all over the country.

3. Alltel's primary concern in this proceeding has been with carriers where there is no transport issue as existing direct interconnection exist and that Type 1 number migration, which is dependant in most instances on porting, not be held hostage or precluded by a continued denial of or suspension of the lawful porting obligation imposed on ILECs by the Act. Type 1 numbers are ILEC numbers that were assigned to CMRS carriers but that still route through ILEC switches on inbound calls to the CMRS customer. In spite of early expression by Alltel of these concerns and the representation that such would be discussed and negotiated, the answer from the few RLECs has very simply been "No". With respect to avoiding further delay regarding Type 1 number migration or even agreeing to not use this proceeding to block such, the RLECs have taken the position that Alltel would actually have to file a new proceeding to force these carriers to port these numbers used by Alltel customers and Alltel's customers are at risk that this proceeding trumps any such effort.

BACKGROUND

It must be noted that the RLECs are seeking to change the dates on a schedule they stipulated were acceptable. The RLECs claim "newly" discovered information entitles them to a change of schedule. The new information is the merger. However, the RLECs own motion notes a filing with the FCC on the merger on June 13, 2008. Further, given the merger does not impact these proceedings, the reasoning of the motion is flawed.

Also, contrary to the Motion to Continue, Alltel has not been unreasonable in the scheduling, Alltel has attempted to work with the RLECs but has met nothing but none response, delay, avoidance, and obstinance.

Rather than working in good faith to provide portability and port numbers used by Alltel customers, the RLECs are taking the position that they are still entitled to a suspension even though they may have the technical ability to port, the costs to implement is small and the costs of transport realistically small. Some even seek suspension if there are no transport issues

LEGAL ANALYSIS

The RLECs initiated the request for suspension of their legal obligations. The porting obligation is set forth in Section 251(b)(2) of the Communications Act of 1934, as amended. 47 U.S.C. § 251(f)(2) specifies the requirements for receipt of suspension. To receive a suspension, a carrier must show that suspension is necessary to avoid significant adverse economic impact on users of telecommunications services; or necessary to avoid imposing a requirement that is unduly and economically burdensome; or to avoid imposing requirement that is not technically feasible. If an RLEC meets one of these elements, an RLEC must also show that the suspension is consistent with the public interest, convenience and necessity.

The Commission has previously heard petitions for suspension of the obligation to provide local number portability and has determined that the number portability is technically feasible. See, e.g., In the Matter of the Petition of Brookings Municipal Utilities, Amended Final Decision and Order dated January 3, 2005 in TC04-047. Additionally, it has been implemented successfully and operates successfully throughout the country. Therefore, the RLECs in this situation must either show that suspension is necessary to avoid a significant adverse economic impact on users of telecommunications services generally or to avoid imposing requirement that it is unduly economically burdensome and that the suspension is consistent with the public interest, convenience and necessity.

In focusing on the first part of this test, the Commission determined that a significant adverse economic impact turns on the users of the RLECs. See TC040-047 Findings of Fact #44. While the question of unduly economically burdensome turns on the Petitioner and potentially Petitioner's customer. See TC040-047 Findings of Fact #45.

In these proceedings, transport again appears to be the RLEC focal point. While Alltel will show that the RLECs transport costs is speculative, unsupported, exaggerated and unfounded in all cases, it is most amazing that it is even argued by those RLECs with which direct interconnection have been established. The RLECs' position when direct interconnection exists is still that it should not have to implement number portability.

Petitioners attempt to inject the Verizon acquisition of Alltel is equally meritless and a mere attempt to divert, delay and extend their obligations and deny consumers the ability to port their numbers. Verizon is acquiring Alltel Corporation and all its subsidiaries and properties less any properties that may be required to divest in the process. The Alltel entities, if not subject to divestiture, will remain intact unless or until Verizon, after acquiring those entities undertakes to merge those entities or transfer their assets and licenses. Therefore, for now, even if the Alltel entity operating in South Dakota is acquired by Verizon, it will be a name change and change of control only. Therefore even if such was relevant to this proceeding, which it is not, there is not change for now.

As noted above and this Commission's previous proceeding, the focus of suspension rests on the economic impact of the Petitioner and Petitioner's customers. It does not address possible competition or how many competitors. Rather, the economic burden has to be shown from a Petitioner's standpoint.

Financial information or whether Alltel and Verizon are merging has no relevancy and will not lead to admissible evidence in this case. The RLECs seek an extension on the stipulated deadlines based simply on some claim that they must ask discovery of and investigate the

merger. This is a distraction and the Commission should make clear that such information is neither relevant nor discoverable in this case. The merger or the end result of a merger pending between Verizon and Alltel has no connection to what the economic burden might be on the RLECs in this situation.

CONCLUSION

For reasons stated above, Alltel requests the Commission deny the Motion and require the RLECs to file testimony as required in the Stipulation agreed to by the RLECs.

Dated this 27th day of June, 2008.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of ALLTEL'S OPPOSITION TO MOTION FOR MODIFICATION OF THE STIPULATION FOR PROCEDURE SCHEDULE was delivered by electronic mail this 27th day of June, 2008, to the following:

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