
BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF SOUTH DAKOTA

In the Matter of the Petition of Vivian
Telephone Company for Suspension or
Modification of 47 USC Section 251(b)(2)
of the Communications Act of 1934 as
Amended

Docket No. TC08-015

DIRECT PRE-FILED TESTIMONY OF

DENNY LAW

July 15, 2008

1 **Q: What is your name and address?**

2 A: My name is Denny Law. My business address is 525 E. Fourth Street, P.O. Box
3 98, Dell Rapids, SD, 57022. My business telephone number is 605-428-5421.

4 **Q: By whom are you employed and in what capacity?**

5 A: I am the Eastern Regional Manager of Vivian Telephone Company (Vivian) d/b/a
6 Golden West Telecommunications. Vivian is a rural independent local exchange
7 carrier that provides local exchange, exchange access and other
8 telecommunications services to 17,892 access lines in South Dakota, including an
9 average of 1,789 "lifeline" access lines within its South Dakota service area.

10 Vivian's service area includes the exchanges of Freeman, Springfield, Marion,
11 Menno, Avon, Scotland, Lesterville, Burke, Bonesteel, Gregory, Reliance,
12 Winner, Clearfield, Witten, Murdo, Vivian, Mission, Custer and Rosebud.

13 **Q: Does your company have any direct points of interconnection with any
14 wireless carrier?**

15 A: Yes. There is a direct connection between Vivian and Alltel in the Winner,
16 Custer, and Mission exchanges, and direct connections between Vivian and
17 Verizon in the Winner, Custer, Murdo and Gregory exchanges.

18 **Q: How would you describe the service area and local calling area of your
19 exchanges, as compared to those of the wireless carriers operating in your
20 area?**

21 A: Our service areas are defined by the boundaries of our exchanges, and where we
22 have physical cable plant. The wireless carriers, on the other hand, serve areas
23 licensed by the FCC and by the reach of a radio frequency transmission from a

1 tower site, which makes their wireless local calling area much larger than our
2 exchange boundaries. The boundaries of our wireline rate centers and the local
3 calling areas of wireless carriers serving in our area vary greatly.

4 **Q: How does Vivian route calls from its subscribers' landline phones to wireless**
5 **carrier subscribers?**

6 A: If a wireless number is local to one of Vivian's calling areas or EAS areas and the
7 wireless carrier has a direct connection to Vivian, the call is routed over the trunks
8 associated with that direct connection. For example, an Alltel wireless number
9 that is local to the Winner, Custer, or Mission calling areas would be routed over
10 the trunks associated with Alltel's direct connections in those exchanges. The
11 same would be true for Verizon wireless numbers that are local to the Winner,
12 Custer, Murdo, or Gregoray calling areas. In all other cases, when a subscriber
13 located in any other Vivian calling areas uses his or her landline phone to call a
14 wireless phone number, the subscriber must dial a ten-digit phone number; the
15 call is routed from the subscriber's landline phone to the Vivian central office
16 switch, where it is determined to be a non-local call; and the call is switched to a
17 toll trunk group. The toll trunk carries the call to South Dakota Network's
18 (SDN's) Centralized Equal Access (CEA) tandem, which is located in Sioux
19 Falls, to be routed to the appropriate Point of Interconnection of the wireless
20 carrier.

21 **Q: What is the number of wireless carriers authorized to serve in your**
22 **company's service area?**

1 A: To my knowledge, at least four wireless carriers are currently providing service in
2 Vivian's local exchange area: Verizon Wireless, Alltel, RCC, and Swiftel PCS.
3 However, there are nearly 30 entities that own licensed wireless spectrum that
4 may be used to serve the Vivian local exchange area in the future.

5 **Q: Have any subscribers requested local number portability (LNP) from your**
6 **company?**

7 A: To my knowledge, not a single Vivian subscriber has requested local number
8 portability from Vivian.

9 **Q: Have any subscribers ever inquired whether the company could port a**
10 **number to a VoIP provider or have any carriers requested LNP in**
11 **connection with service to a VoIP provider?**

12 A: Not to my knowledge.

13 **Q: Has the lack of LNP had an impact on wireless service?**

14 A: Even during the past few years when Vivian has had a suspension of intermodal
15 LNP, the number of people who have wireless service has continued to grow
16 throughout the country and in South Dakota. Therefore, I believe there has been
17 no impact on wireless service or competition.

18 **Q: Mr. Davis' testimony addresses the cost of transport associated with**
19 **intermodal and VoIP LNP. Are there other costs?**

20 A: Yes. Vivian would have to take a number of actions and incur various costs to be
21 able to port numbers. These costs are outlined in Exhibit 2 to Mr. Davis' direct
22 testimony.

1 **Q: If there is no demand for intermodal LNP and Vivian must incur costs to**
2 **implement LNP, including, possibly, transport costs, why didn't you request**
3 **a total suspension of LNP like you did before?**

4 A: For a couple of reasons. First, since the first and second LNP cases, Vivian has
5 made some upgrades to some of its switches, and other cost elements associated
6 with LNP have been reduced, such that the cost of implementing LNP (other than
7 transport) have fallen. Second, Vivian's Petition, in essence, is a compromise to
8 the wireless carriers. Although Vivian believes there is no demand for intermodal
9 LNP, some wireless carriers apparently feel it is useful to their business. Rather
10 than ask for a total suspension, Vivian will incur the cost of implementing LNP.
11 Vivian merely asks that it not be required to pay for transport.

12 **Q: Are there other reasons you filed this Petition?**

13 A: Yes. There are four wireless carriers providing service in Vivian's local exchange
14 area, but it appears that not all of these carriers are active. However, there are
15 many additional wireless spectrum license holders throughout Vivian's local
16 exchange area, but it appears that not all carriers are active. Vivian does not
17 know this for certain, and in any event, any licensed carrier could start operations
18 at any time. Further, as a result of the latest FCC decision, Vivian may be
19 required to provide LNP in connection with service to VoIP providers. At this
20 time, Vivian does not know who or how many VoIP providers may be involved.
21 Vivian has no arrangements in place that would allow for the transport of traffic
22 to numbers ported from Vivian to any of these entities. Further, because Vivian

1 has no arrangements with these carriers, it cannot transport traffic to numbers
2 ported from Verizon or Alltel to any of these other entities.

3 **Q. Why do you believe it is appropriate for the wireless carriers to pay for the**
4 **cost of transport?**

5 A. Because, in the first instance, it is the wireless carrier who makes the decision
6 whether to pursue direct or indirect connection with the ILEC. It also is the
7 wireless carrier that, in the first instance, either pursues a point of interconnection
8 within the LEC's service territory or not. Further, it appears to be the position of
9 Alltel and Verizon that the point of interconnection and direct versus indirect
10 interconnection is within their discretion, although Santel does not agree with this
11 position. Therefore, whether there will be any cost of transport and what the
12 transport cost will be is largely controlled, at least in the first instance, by the
13 wireless carriers.

14 For example, Mr. Davis' exhibit concerning the cost of transport (attached to his
15 Direct Testimony) bases the costs on transporting traffic to Sioux Falls. It is my
16 understanding, however, that Sprint and Alltel have said they have the right to
17 require the transport of traffic to any point in the LATA, which is almost any
18 point in South Dakota. If wireless carriers should some day decide that it makes
19 more sense for their traffic to go to some other point in the LATA, the cost of
20 transport could be a lot more than what Mr. Davis modeled. And, if they make
21 that decision for their own business purposes, they should be willing to pay for it.

22 **Q: Do you have concerns with this Commission requiring Vivian to incur**
23 **transport obligations that extend beyond its current rural service area?**

1 A: Yes. Other than limited EAS facilities, Vivian does not have facilities to
2 transport local calls outside of its service area. Generally, I believe that requiring
3 a small rural company such as Vivian to incur additional transport costs related to
4 facilities to transport local calls beyond its current local network and its service
5 area would impose a competitive disadvantage on Vivian and also make it more
6 difficult in the future to achieve universal service. I believe it must be recognized
7 that Vivian, as a small rural carrier with a service area limited to only a portion of
8 South Dakota, does not have telecommunications facilities extending throughout
9 the LATA or MTA. This is in contrast to the larger wireless carriers such as
10 Verizon and Alltel which, with their telecommunications networks, do reach most
11 of this State. I find it hard to understand why Vivian should have to incur
12 additional costs associated with transport facilities to transport local calls outside
13 of its rural service area in order to make things more efficient for certain wireless
14 carriers who have much larger networks and many more customers. Moreover,
15 the challenges of maintaining affordable and universal telephone service are
16 already substantial for Vivian and shifting additional transport responsibilities to
17 rural carriers and customers for transport services to locations far removed from
18 Vivian's existing rural service would be a step in the wrong direction.

19 **Q: Does the recently announced merger between Alltel and Verizon have any**
20 **impact on this proceeding and the cost of transport?**

21 A: Yes. This merger may impact the cost of transport. Verizon and Alltel currently
22 operate as two separate entities in Vivian's service area. If one of the operations
23 is sold as a result of the merger, then the new carrier may interconnect with

1 Vivian in a different manner or at a different location, which would impact the
2 cost of transport. Also, the newly merged Verizon and Alltel could decide to
3 interconnect differently. As the Verizon/Alltel merger is expected to close by
4 December 31, 2008, it may make sense to continue the total suspension of
5 intermodal LNP until after the merger.

6 **Q: What will be the impact on Vivian and its customers if its Petition is not**
7 **granted?**

8 A: As stated, implementing LNP will impose costs on Vivian and its subscribers.
9 The cost of paying for transport will impose an additional burden on Vivian and
10 its subscribers. Depending on the point of interconnection, the cost of transport
11 may be substantial; and our subscribers have not requested this service. There is
12 little, if any, demand for intermodal or VoIP LNP in our service area. Little or no
13 demand means that the cost of transport imposes a significant adverse economic
14 impact on users and an unduly economically burdensome requirement on the
15 company and subscribers. Further, the vast majority of our customers will have to
16 pay for those few, if any, who decide to port their numbers. It is a very poor
17 bargain for the majority of our customers.

18 **Q: Do you expect the implementation of LNP to result in an increase in**
19 **customer's rates?**

20 A: It is not known at this time whether Vivian will impose an LNP surcharge on its
21 subscribers to recover the costs of implementing LNP, other than transport. With
22 respect to the cost of transport, it is my understanding that Vivian may not be
23 allowed to recover the costs associated with transport of ported calls through the

1 LNP surcharge. To the extent this is correct, Vivian may be forced to increase
2 local rates or curtail services or investment in the network. For example, its
3 investment in broadband or other network improvements and in the services it is
4 able to provide to customers may be delayed or reduced. If the cost of transport is
5 recovered through local rate increases, some segment of subscribers may
6 discontinue service or decrease the number of lines to which they subscribe,
7 which would further increase the per-subscriber cost of transport.

8 **Q: What do you expect the general reaction of your customers to be if there are**
9 **new LNP charges or rate increases associated with LNP and transport costs?**

10 A: I would expect the reaction would be negative. Since the vast majority of our
11 customers will gain no benefit from intermodal LNP or VoIP LNP, I expect
12 protests if they must pay a cost for a service they do not want and for which they
13 receive no benefit. It is not in Vivian's or its customers' best interests for the
14 large majority of customers to be required to pay for a mandated service that will
15 benefit few if any of our customers.

16 **Q: Does intermodal and VoIP LNP impose any other burdens on the company**
17 **and subscribers?**

18 A: Yes. Wireline to wireless porting under current routing protocols would impose
19 an unduly economically burdensome requirement by making the network less
20 efficient and by confusing customers. Currently, for calls from a subscriber of
21 Vivian to a wireless carrier, Vivian does not carry local traffic to a point of
22 interconnection beyond Vivian's local calling area (or EAS area). Therefore, if
23 intermodal LNP is implemented before the transport issue has been resolved with

1 all wireless carriers, end users who continue to dial a ported number on a seven-
2 digit basis may receive a message that the call cannot be completed as dialed, or a
3 message instructing the party to redial using 1+ the area code. Thus, callers
4 would have to dial twice, with the resulting network use, to place one call. It
5 appears these issues also may be associated with calls to numbers ported to VoIP
6 providers.

7 **Q: As Vivian is not LNP capable, can Vivian correctly route calls to a number**
8 **ported from one wireless carrier to another?**

9 A: No.

10 **Q: In your Petition, you stated Vivian would contact wireless carriers and**
11 **attempt to negotiate a resolution of routing and transport issues. Has Vivian**
12 **done so?**

13 A: Yes. Vivian has contacted intervening wireless carriers and attempted to
14 negotiate a solution to the transport/routing issues. The parties have not yet been
15 successful in negotiating a settlement, but Vivian is committed to continue
16 negotiations with wireless carriers to reach a resolution of these outstanding
17 issues.

18 **Q: Does this conclude your direct testimony?**

19 A: Yes, although I reserve the opportunity to revise or modify this pre-filed direct
20 testimony at or before the hearing if I receive additional information pertaining to
21 the issues I presented herein.

Certificate of Service

The undersigned, attorney for Petitioner hereby certifies that a true and correct copy of Prefiled Testimony of Denny Law and Pre-filed Testimony and Confidential Exhibits of Dan Davis was sent electronically on this 15th day of July, 2008, upon:

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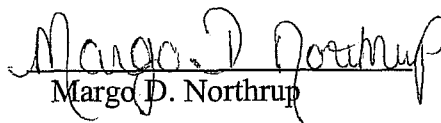
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