BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF SOUTH DAKOTA

IN THE MATTER OF THE COMPLAINT FILED BY KENNEBEC TELEPHONE COMPANY, INC. AGAINST ALLTEL COMMUNICATIONS, INC. REGARDING NONPAYMENT OF TRANSITING CHARGES	)))))	**ORDER DENYING MOTION FOR SUMMARY JUDGMENT** **TC08-031**

On February 20, 2008, the Public Utilities Commission (Commission) received a complaint filed by Kennebec Telephone Company, Inc. (Kennebec), against Alltel Communications, Inc. (Alltel) regarding nonpayment of transiting charges.

On March 24, 2008, the Commission received a Response from Alltel. On May 13, 2009, the Commission received a Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment, Complainant's Statement of Undisputed Material Facts in Support of Summary Judgment and Affidavit of Rod Bowar from Kennebec. On June 1, 2009, the Commission received a Brief in Opposition to Kennebec's Motion for Summary Judgment, Affidavit of Ron Williams in Opposition to Kennebec's Motion for Summary Judgment and Objections to Claimant's Statement of Alleged Undisputed Material Facts in Support of Motion for Summary Judgment from Alltel. On June 17, 2009, the Commission received an Affidavit of Ron Williams and an Affidavit of Talbot J. Wieczorek from Alltel. On June 22, 2009, the Commission received Complainant's Reply Brief in Support of Motion for Summary Judgment, Affidavit of Counsel in Support of Complainant's Reply Brief and Supplemental Affidavit of Rod Bowar from Kennebec.

The Commission finds that it has jurisdiction over this matter pursuant to SDCL Chapters 1-26, 49-13 and 49-31.

On June 23, 2009, at a regularly scheduled meeting, the Commission considered the Motion for Summary Judgment. The Commission voted unanimously to deny the Motion for Summary Judgment. The Commission finds that the record in this proceeding fails to show that there is no genuine issue as to any material fact. It is therefore

ORDERED, that the Motion for Summary Judgment is hereby denied.

Dated at Pierre, South Dakota, this 30th day of June, 2009.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that this document has been served today upon all parties of record in this docket, as listed on the docket service list, electronically.

By: Delaine Kolbo

Date: 7/1/09

(OFFICIAL SEAL)

BY ORDER OF THE COMMISSION:

Dustin M. Johnson

DUSTIN M. JOHNSON, Chairman

Steve Kolbeck

STEVE KOLBECK, Commissioner

Gary Hanson

GARY HANSON, Commissioner