

Steve Gatto, P.C.

Attorneys at Law

210 S. Washington Sq., Suite A
Lansing, Michigan 48933
(517) – 896-3978

May 14, 2006

E-file

Mary Jo Kunkle, Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way
Lansing, MI 48911

PART 1 of 8

Dear Ms. Kunkle:

Re: In the Matter of the Petition of Ace Telephone Company, Allendale Telephone Company, Barry County Telephone Company, Blanchard Telephone Company, Bloomingdale Telephone Company, Chippewa County Telephone Company, Deerfield Farmers' Telephone Company, Hiawatha Telephone Company, Kaleva Telephone Company, Midway Telephone Company, Ogden Telephone Company, Ontonagon Telephone Company, Pigeon Telephone Company, Upper Peninsula Telephone Company, Waldron Telephone Company, and Winn Telephone Company, for the Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with Alltel Communications, Inc., Pursuant to Section 252(b) of the Federal Telecommunications Act of 1996
Case No. U-14889

Enclosed for filing are (1) **Petition for Arbitration (with exhibits)**, (2) **Direct Testimony of David S. McCartney (with exhibits)**, and (3) **Certificate of Service**.

This filing is being done in multiple parts due to the nature of e-filing and the filing herein.

Thank you for your assistance in this matter.

Sincerely,

 **Steve Gatto**

Steve Gatto, P.C.
Steve Gatto

Digitally signed
by Steve Gatto
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Gatto, o=Steve
Gatto, P.C.,
c=US
Date:
2006.05.14
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Enclosures

cc: Cynthia, Austin, Alltel Communications, Inc. (via e-mail and overnight delivery)

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Petition of Ace Telephone)
Company, Allendale Telephone Company,)
Barry County Telephone Company,)
Blanchard Telephone Company, Bloomingdale)
Telephone Company, Chippewa County)
Telephone Company, Deerfield Farmers')
Telephone Company, Hiawatha Telephone)
Company, Kaleva Telephone Company, Midway)
Telephone Company, Ogden Telephone Company,)
Ontonagon Telephone Company, Pigeon Telephone)
Company, the Upper Peninsula Telephone)
Company, Waldron Telephone Company, and)
Winn Telephone Company, For the Arbitration)
of Interconnection Rates, Terms, and Conditions)
and Related Arrangements with Alltel)
Communications, Inc., Pursuant to Section 252(b))
of the Federal Telecommunications Act of 1996)
_____)

Case No. U-14889

PETITION FOR ARBITRATION

**Date of Negotiation Requests For Petitioners
(except Allendale Telephone Company): December 5, 2005 (By Stipulation)**

135th Day thereafter: April 19, 2006 (By Stipulation)

160th Day thereafter: May 14, 2006 (By Stipulation)

**Date of Negotiation Requests For Petitioner
Allendale Telephone Company: December 7, 2005**

135th Day thereafter: April 21, 2006

160th Day thereafter: May 16, 2006

Steve Gatto, P.C.
Attorneys for Petitioners
Steve Gatto (P58521)
210 S. Washington Square, Suite A
Lansing, MI 48933
517-896-3978

Ace Telephone Company, Barry County Telephone Company, Blanchard Telephone Company, Bloomingdale Telephone Company, Chippewa Telephone Company, Deerfield Farmers' Telephone Company, Hiawatha Telephone Company, Kaleva Telephone Company, Midway Telephone Company, Ogden Telephone Company, Ontonagon County Telephone Company, Pigeon Telephone Company, the Upper Peninsula Telephone Company, Waldron Telephone Company, and Winn Telephone Company (collectively, "Petitioners"), through their attorney, Steve Gatto, P.C., and pursuant to Section 252(b)(1) of the Federal Telecommunications Act of 1996 ("Federal Act"), 47 USC 252(b)(1) and the Michigan Telecommunications Act ("MTA"), MCL 484.2101 et seq., respectfully request that the Michigan Public Service Commission ("Commission") arbitrate open issues resulting from interconnection negotiations between Petitioners and Alltel Communications, Inc. ("Alltel"). (For ease of reference, Petitioners and Alltel are referred to collectively as the "Parties"). Petitioners request that the Commission resolve each of the issues by ordering the Parties to incorporate Petitioners' proposed language in their respective interconnection agreements (i.e., the language in Petitioners' latest proposed interconnection agreement), consistent with the procedures for arbitrating such disputes as set forth in the July 16, 1996, Order in MPSC Case No. U-11134, as amended by the May 18, 2004, Order in MPSC Case No. U-13774. These orders are referred to as the "Arbitration Procedures."

Pursuant to the Arbitration Procedures, this Petition includes and is accompanied by the following exhibits: (1) Petitioners' respective letters requesting negotiations (Exhibit 1), (2) Alltel's acknowledgement of receiving Petitioners' requests to negotiate (Exhibit 2), (3) the last proposed interconnection agreement from Petitioners (other than Chippewa County Telephone Company ("Chippewa"), Hiawatha Telephone Company ("Hiawatha"), Upper Peninsula

Telephone Company (“UPTC”) and Winn Telephone Company (“Winn”)), which is also the agreement Petitioners (not Chippewa, Hiawatha, UPTC and not Winn) request the arbitration panel and Commission order be executed (Exhibit 3), (4) Alltel’s last proposed interconnection agreement (Exhibit 4), (5) a list of issues to be arbitrated (Exhibit 5), (6) a Matrix showing, for each disputed issue, the Parties’ respective positions and proposed language for inclusion in an interconnection agreement, and the reasons the Commission should adopt Petitioners’ position and language (Exhibit 6), (7) Affidavit of Agris Pavlovskis, supporting both this Petition and the Matrix, (Exhibit 7), (8) Affidavit of David S. McCartney (Exhibit 8), supporting both this Petition and the Testimony of David S. McCartney, (9) correspondence confirming that the Parties (not Allendale) have stipulated to an arbitration window closing on May 14, 2006 (Exhibit 9), (10) the last proposed interconnection agreement from Petitioner Chippewa (Exhibit 10), which is also the agreement Chippewa requests the arbitration panel and Commission order be executed, (11) the last proposed interconnection agreement from Petitioner Hiawatha (Exhibit 11), which is also the agreement that Hiawatha requests the arbitration panel and Commission order be executed, (12) the last proposed interconnection agreement from Petitioner UPTC (Exhibit 12), which is also the agreement that UPTC requests the arbitration panel and Commission order be executed, and (13) the last proposed interconnection agreement from Petitioner Winn (Exhibit 13), which is also the agreement that Winn requests the arbitration panel and Commission order be executed. The Testimony of David S. McCartney, which is also being filed in support this Petition, is also included with this filing. In support of this Petition, Petitioners state:

PETITIONERS, ALLTEL, AND MECA

1. Petitioners consist of the following rural telephone companies:

2. Ace Telephone Company (“Ace”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 5351 N. M-37, P.O. Box 69, Mesick, MI 49668-0069. Ace is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

3. Allendale Telephone Company (“Allendale”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 6568 Lk. Michigan Drive, P.O. Box 509, Allendale, MI 49401-0509. Allendale is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

4. Barry County Telephone Company (“Barry County”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 123 W. Orchard St., P.O. Box 128, Delton, MI 49046-0128. Barry County is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

5. Blanchard Telephone Company (“Blanchard”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 425 Main St., P.O. Box 67, Blanchard, MI 49310-0067. Blanchard is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

6. Bloomingdale Telephone Company (“Bloomingdale”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 101 W. Kalamazoo St., P.O. Box 187, Bloomingdale, MI 49026-0187. Bloomingdale is licensed to

provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

7. Chippewa County Telephone Company (“Chippewa”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 9984 W. State Street, P.O. Box 309, Brimley, MI 49715-0309. Chippewa is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

8. Deerfield Farmers’ Telephone Company (“Deerfield”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 4200 Teal Rd., Petersburg, MI 49270-9304. Deerfield is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

9. Hiawatha Telephone Company (“Hiawatha”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 108 West Superior Street, Munising, MI 49862-1124. Hiawatha is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

10. Kaleva Telephone Company (“Kaleva”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 9462 Osmo St., P.O. Box 6, Kaleva, MI 49645-0006. Kaleva is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

11. Midway Telephone Company (“Lennon”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 11697 Hwy. M-28, P. O. Box 97, Watton, MI 49970-0097. Midway is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

12. Ogden Telephone Company (“Ogden”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 4726 E. Weston Rd., Blissfield, MI 49228-9629. Ogden is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

13. Ontonagon County Telephone Company (“Ontonagon”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 618 River St., Ontonagon, MI 49953. Ontonagon is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

14. Pigeon Telephone Company (“Pigeon”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 20 S. Main St., P.O. 650, Pigeon, MI 48755-0650. Pigeon is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

15. Upper Peninsula Telephone Company (“Upper Peninsula Company”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 397 U.S. 41 N, P.O. Box 86, Carney, MI 49812-0086. Upper Peninsula Company is

licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

16. Waldron Telephone Company (“Waldron”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 119 S. Main St., P.O. Box 197, Waldron, MI 49288-0197. Waldron is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

17. Winn Telephone Company (“Winn”) is a Michigan corporation organized and formed under the laws of the State of Michigan, having an office at 2766 W. Blanchard Road, P.O. Box 367, Winn, MI 48896-0367. Winn is licensed to provide basic local exchange telecommunications services in Michigan, and is a “requesting telecommunications carrier” within the meaning of Section 252(a)(1) of the Federal Act.

18. All Petitioners, as rural local exchange carriers, are members of the Michigan Exchange Carriers’ Association, Inc. (“MECA”). MECA is an association that preserves, advances, and advocates for the interests of rural local exchange carriers in Michigan in matters of regulation and interconnection.

19. Alltel provides Commercial Mobile Radio Service in Michigan. To the best of Petitioners’ knowledge, Alltel is an Arkansas corporation with its offices located at One Allied Drive, Little Rock, Arkansas, 77202.

JURISDICTION

20. The MPSC has jurisdiction to consider this Petition under the MTA, MCL 484.2201 et seq., and Sections 251 and 252 of the Federal Act, 47 USC 251-252. See also

Federal Communications Commission's Declaratory Ruling and Report and Order, *In the Matter of Developing a Unified Intercarrier Compensation Regime*, CC Docket No. 01-92, FCC 05-42 (Released 2/24/05) (hereinafter referred to as the "*T-Mobile Decision*")

21. Petitioners request that the Commission appoint a panel of arbitrators to resolve this petition, and do so in accordance with the procedures set forth in the Arbitration Procedure Orders (the Commission's July 16, 1996, Order in MPSC Case No. U-11134, as amended by the May 18, 2004, Order in MPSC Case No. U-13774).

BACKGROUND AND STATEMENT OF CASE

A. Pre-Request to Negotiation: The Parties Do Not Have an Existing Interconnection Agreement

22. Petitioners and Alltel do not have, and have never had, an executed interconnection agreement between them that would govern typical "interconnection" matters (i.e., reciprocal compensation, routing and identification of traffic, traffic exchange factors, and interMTA issues). Rather, Petitioners have offered services under the Petitioners' own respective applicable tariffs.

23. In approximately May 2005 (December 2005 for Petitioner Allendale), Petitioners initially contacted Alltel to request that Alltel negotiate an interconnection agreement pursuant to 47 USC 252. The Petitioners designated MECA as their authorized agent to negotiate the agreement. (See Request to Negotiate Correspondences, attached as Exhibit 1).

24. Petitioners issued correspondences to Alltel over the time period between May 2005 and December 2005. (See id.).

25. Between June 7, 2005 and April 2006, Alltel acknowledged receiving those respective requests to negotiate. (See Acknowledgement of Request to Negotiate Correspondence, Exhibit 2).

26. Thereafter, the Parties agreed to conduct negotiations using one of the Petitioners, Deerfield as the lead and example in the sense that the Parties would first attempt to negotiate the terms of an interconnection agreement between Deerfield and Alltel, and, assuming they could agree upon such an agreement, would then use that Deerfield-Alltel interconnection agreement as the model for interconnection agreements for the remainder of the Petitioners.

27. Using that negotiation approach, MECA submitted to Alltel a proposed Deerfield-Alltel interconnection agreement for Alltel's consideration. Alltel voiced various objections, whereupon MECA and Alltel proceeded to hold discussions relating to negotiating the terms of an interconnection agreement. During those negotiations, the Parties submitted multiple proposed agreements and counter-proposals back and forth over several months.

28. Through diligent and good-faith efforts, MECA and Alltel managed to agree on many terms of an interconnection agreement; however, there remain two issues still in dispute and not agreed upon. The Petitioner's (not Chippewa, Hiawatha, UPTC and not Winn) last proposed interconnection agreement is attached as Exhibit 3, while Chippewa's last proposed interconnection agreement is attached as Exhibit 10, Hiawatha's last proposed interconnection agreement is attached as Exhibit 11, UPTC's last proposed agreement is attached as Exhibit 12, and Winn's last proposed interconnection agreement is attached as Exhibit 13. Alltel's last counter-proposed interconnection agreement is attached as Exhibit 4. Petitioners respectfully request that the arbitration panel and Commission order that Exhibit 3 and Exhibits 10, 11, 12 and 13 be executed by the Parties.

29. Exhibit 5 to this Petition is a list of issues to be arbitrated. Exhibit 6 to this Petition is a Matrix of issues to be arbitrated, which included a thorough explanation of the specific issues in dispute and identifies the Parties' respective positions on those issues and

proposed language for each issue. See also Affidavit of Agris Pavlovskis, Exhibit 7; Affidavit of David S. McCartney, Exhibit 8, and accompanying testimony of David S. McCartney, each of which is being filed to support this Petition either as an exhibit or simply accompanying this Petition. For summary purposes, though, the issues in dispute can be succinctly stated as follows:

Issue 1: Whether the Parties' interconnection agreements should contain the rates, regarding local switching, local transport-termination, and local transport-facility relative to terminating CMRS traffic, that Petitioners' proposed and which are equal to and directly based on mapping applicable MPSC-approved TSLRIC studies?

Petitioners' Position: Yes.

Alltel's Position: No.

Issue 2. Whether the Parties' interconnection agreement should exclude language to the effect that the Parties expressly waive any rights they may have as to the other to collect amounts that either of the Parties owed the other before the interconnection agreement is executed?

Petitioners' Position: Yes.

Alltel's Position: No.

[See Exhibit 5, list of issues to be arbitrated.]

30. By stipulation (except Petitioner Allendale), the 160th day of the arbitration window is May 14, 2006. (See Exhibit 9). For Petitioner Allendale the 160th day of the arbitration window is May 16, 2006. (See Exhibit 1). The Petitioners now timely file this Petition for resolution of the disputed issues between them. Given that this negotiation has been

ongoing for some time and has apparently reached an impasse, Petitioners believe that they have little choice but to proceed to arbitration.

RELIEF REQUESTED

31. Petitioners respectfully request that the Commission arbitrate the disputed issues in accordance with Sections 251 and 252 of the Federal Act, adopt Petitioners' positions on those issues as reasonable and in the public interest, and require Alltel to enter into an interconnection agreement with each of the Petitioners that includes all of the terms agreed upon during negotiations and, as to issues in dispute referenced herein, the contract language Petitioners proposed, as requested in Exhibit 3¹, Exhibit 10, Exhibit 11, Exhibit 12, and Exhibit 13.

Respectfully Submitted,

Steve Gatto, P.C.
Attorneys for Petitioners

 Steve Gatto
Signature Not Verified

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Gatto, P.C., c=US
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Date: May 14, 2006

By:

Steve Gatto (P58521)
210 S. Washington Square, Suite A
Lansing, MI 48933
(517) 896-3978

¹ Given that Petitioners (through MECA) and Alltel entered into interconnection agreement negotiations using Deerfield Farmers' Telephone Company as the lead company for negotiation purposes, the quoted language Petitioners propose refers to Deerfield. Where appropriate and once approved, that language in other Petitioners' agreements would replace "Deerfield" with the appropriate company names of the remaining Petitioners to correctly refer to each of the Petitioners.

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

In the Matter of the Petition of Ace Telephone)
Company, Allendale Telephone Company,)
Barry County Telephone Company,)
Blanchard Telephone Company, Bloomingdale)
Telephone Company, Chippewa County)
Telephone Company, Deerfield Farmers')
Telephone Company, Hiawatha Telephone)
Company, Kaleva Telephone Company, Midway)
Telephone Company, Ogden Telephone Company,)
Ontonagon Telephone Company, Pigeon Telephone)
Company, the Upper Peninsula Telephone)
Company, Waldron Telephone Company, and)
Winn Telephone Company, For the Arbitration)
of Interconnection Rates, Terms, and Conditions)
and Related Arrangements with Alltel)
Communications, Inc., Pursuant to Section 252(b))
of the Federal Telecommunications Act of 1996)
_____)

Case No. U-14889

CERTIFICATE OF SERVICE

Steve Gatto, being duly sworn, deposes and says that on May 14, 2006, copies of (1) the Petition of Ace Telephone Company, Allendale Telephone Company, Barry County Telephone Company, Blanchard Telephone Company, Bloomingdale Telephone Company, Chippewa County Telephone Company, Deerfield Farmers' Telephone Company, Hiawatha Telephone Company, Kaleva Telephone Company, Midway Telephone Company, Ogden Telephone Company, Ontonagon Telephone Company, Pigeon Telephone Company, the Upper Peninsula Telephone Company, Waldron Telephone Company, and Winn Telephone Company for the Arbitration of Interconnection Rates, Terms, and Conditions and Related Arrangements with Alltel Communications, Inc., Pursuant to Section 252(b) of the Federal Telecommunications Act of 1996 (with exhibits), (2) Direct Testimony of David S. McCartney (with exhibits), and (3) Certificate of Service were served upon:

See Attached Service List

Service was accomplished by overnight delivery and via electronic mail.

 Digitally signed
by Steve Gatto
DN: cn=Steve
Gatto, o=Steve
Gatto, P.C., c=US
Date: 2006.05.14
10:25:15 -0400
Signature
Not Verified
Steve Gatto

Michigan Public Service Commission
Case No. 14889
Service List
Page 1 of 1

Alltel Communications, Inc.

Cynthia Austin
Alltel Communications, Inc.
One Allied Drive
Mailstop: B5F04-D
Little Rock, AR 72202

e-mail: cynthia.austin@alltel.com