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July 13, 2006

Ms. Mary Jo Kunkle
Executive Secretary
Michigan Public Service Commission
6545 Mercantile Way, P.O. Box 30221
Lansing, MI 48909

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, 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.

Dear Ms. Kunkle:

Enclosed for filing are (1) Petitioners' Response the Arbitration Panel's Request Information from Petitioners, Petitioners Proposed Decision for the Arbitration Panel and Certificate of Service of for filing the matter..

Please call if you have any questions regarding the enclosures.

Yours truly yours,

Steve Gatto, P.C.

A small, stylized signature of Steve Gatto in black ink, with the name "Steve Gatto" printed below it.

Steve Gatto

Enclosures:

cc: Michael S. Ashton
Anne-Marie Clark
Wendy Thelen
Sharon Feldman, Administrative Law Judge

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

Certificate of Service

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Steve Gatto, being first duly sworn, deposes and says that on this 13th day of July, 2006, he served a copy of Petitioners' Response To The Arbitration Panel's Request For Information, Petitioners' Proposed Decision of the Arbitration Panel, and Certificate of Service for same on the following individuals by e-mail to the e-mail addresses listed below:

Michael Ashton @Masht@fraserlawfirm.com
Wendy Thelen at wjthelen@michigan.gov
Ann-Marie Clark at clarka@michigan.gov
Sharon Feldman, Administrative Law Judge at slfeldman@michigan.gov

 Steve
Gatto
Digitally signed by Steve Gatto
DN: cn=Steve Gatto, o=Steve
Gatto P.C., c=US
Date: 2006.07.13
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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')
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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

**PETITIONERS' RESPONSE TO THE ARBITRATION PANEL'S
QUESTIONS**

On June 30, 2006, the Arbitration Panel (the "Panel") in Case No. U-14889, through correspondence, requested Petitioners to provide answers to questions. Petitioners timely provide the following answers and responses to the questions put forth by the Panel:

1. Did Allendale Telephone Company, Deerfield Farmers' Telephone Company, Midway Telephone Company, and Ontonagon Telephone Company participate in the cost study approved in Case No. U-12261? If yes, please provide the basis for your answer. If not, please explain the basis for the reciprocal compensation rates requested by these petitioners.

Answer: No. Petitioners Allendale Telephone Company, Deerfield Farmers' Telephone Company, Midway Telephone Company, and Ontonagon Telephone Company participated in MECA's 1ST TSLRIC Study approved in Case No. U-11448 (January 28, 1998).

A. Petitioners' Proposed Rates Based on MECA's 2nd TSLRIC Study Are Similar to The Rates That Result From Petitioners Approved Costs In MECA's 1st Study, And Are A Reasonable Approximation Of The Cost Of Terminating Calls.

Petitioners Allendale Telephone Company ("Allendale"), Deerfield Farmers' Telephone Company ("Deerfield"), Midway Telephone Company ("Midway"), and Ontonagon Telephone Company ("Ontonagon") did not participate in MECA's 2nd TSLRIC Study, Case No. U-12261. Instead, each of these Petitioners participated in MECA's 1st TSLRIC Study approved in Case No. U-11448 (January 28, 1998).

Petitioners' proposed rates, although based on MECA's 2nd TSLRIC Study, are similar to the rates that result from the mapping of the costs from MECA's 1st TSLRIC Study, and their proposed rates represent a reasonable approximation of the cost of terminating calls

Section 252(d) of the Federal Telecommunications Act addresses pricing standards and charges for the transport and termination of telecommunications traffic. It states that terms and conditions for reciprocal compensation are "just and reasonable" if they provide for the mutual and reciprocal recovery of costs associated with the transport and termination on one carrier's network facilities of calls that originate on the network facilities of the other carrier, and the terms and conditions determine the costs based on a reasonable approximation of the additional costs of terminating those calls. 47 USC 252(d)(2).

The Federal Communications Commission ("FCC") authorizes a state commission to set a rate for reciprocal compensation based on either of the following methods: (a) the forward-looking economic costs of such offering, using a cost study

pursuant to §§ 51.505 and 51.511; (b) a default proxy under §51.507, or (c) a bill and keep arrangement under §51.713. If the Commission opts to set rates in accordance with a cost study under 47 CFR §§ 51.505 and §§ 51.511, the ILEC is to show that is proposed rates “do not exceed forward-looking economic cost per unit of providing the element, using a cost study that complies with the methodology set forth in this section and §51.511.” 47 CFR 505(e).

Discussion

As explained in David S. McCartney’s pre-filed testimony in this case on behalf of Petitioners, the mapping of the costs to the rates from MECA’s 1st TSLRIC Study produces rates that are similar to MECA’s 2nd TSLRIC Study.¹ Mr. McCartney noted in his testimony that although the rates those Petitioners [other than Chippewa, Hiawatha, Upper Peninsula, and Winn] proposed is directly based on MECA’s 2nd TSLRIC Study, those Petitioners’ proposed rates are very similar to the TSLRIC-based rates supported by his mapping calculation of MECA’s 1st TSLRIC Study.² According to Mr. McCartney, this is illustrated in the following chart:

Rates Proposed by All Petitioners Except CCTC, HTC, UPTC and WINN

Local switching per conversation minute of use:

\$0.019705

Local transport-termination per conversation minute of use per termination:

\$0.001472

Local transport-facilities per conversation minute of use per mile:

\$0.000161

Composite Local Call termination rate per conversation minute

(Based on 8.0 billable miles)

\$0.022465

¹ Direct Testimony of David S. McCartney, p. 17.

Rates Supported by 1st TSLRIC Study, Rounded to Six Decimal Places

Local switching & Host-Remote Transport per conversation minute of use: \$0.020670 (\$0.0127582 + \$0.0079117)

Local transport-termination per conversation minute of use per termination: \$0.001677

Local transport-facilities per conversation minute of use per mile: \$0.000576

Composite Local Call termination rate per conversation minute
(Based on 8.0 billable miles) \$0.026955

Petitioners Allendale, Deerfield, Midway, and Ontonagon maintain that their costs were approved in Case No. U-11448, and that the results of rates for local switching, local transport-termination, and local transport-facility from their approved cost study are similar to their proposed rates based on MECA's 2nd TSLRIC Study. Since their proposed rates are similar to the rates from MECA's 2nd TSLRIC Study, it is probable that if those Petitioners had participated in MECA's 2nd TSLRIC, their costs would have decrease to similar extent that the cost did in that cost study. Thus, Petitioners proposed rates would represent a reasonable approximation of the cost of terminating calls.

In the alternative, if the Panel should decide that these Petitioners' proposed rates based on MECA's 2nd TSLRIC Study are not a reasonable approximation of the cost of terminating calls, then Petitioners' reciprocal compensation rate for the interconnection agreement should be based on the mapping results from the costs approved by the

² Direct Testimony of David S. McCartney, p. 17.

Commission in Case No. U-11448, as set forth in Mr. McCartney's testimony and Exhibit DSM 1.³

Alltel's proposed rate of \$0.006038 is less than the TSLRIC of local switching, local-transport-termination, and local transport-facility as those costs were approved by the Commission in Case Nos. U-11448. Alltel's proposed rate should be rejected by this Panel since it would produce a rate below TSLRIC in violation of the MTA. See MCL 484.2321 "[a] provider of a regulated telecommunications service shall not charge a rate for the service that is less than the total service long run incremental cost of providing the service."

Likewise, Alltel's argument that bill and keep is required should be rejected as well. The Commission, in Case No. U-14678, agreed with that case's Arbitration Panel's recommended decision that "a bill and keep arrangement is only appropriate when traffic is roughly equal in order to recognize the cost effects of traffic imbalances. The record shows a traffic exchange imbalance here of 70/30 mobile to land."⁴ The record in the instant case also shows a traffic imbalance of 70/30 mobile to land.

Petitioners' proposed rates, although based on MECA's 2nd TSLRIC Study, are similar to the rates that result from the mapping of the approved costs from MECA's 1st TSLRIC Study (Case No. U-1148), and their proposed rates represent a reasonable approximation of the cost of terminating calls. Thus, it would be just and reasonable for Petitioners interconnection agreement to use their proposed rates.

³ Direct Testimony of David S. McCartney, p. 17; Exhibit DSM 1, pp. 1-7.

⁴ Decision of Arbitration Panel, Case No. U-14678 (January 23, 2006) p. 11.

B. Alltel's Claim that Petitioners' Reciprocal Compensation Should Be Based On Bill And Keep, Or A Rate Of \$0.00, Because Of Petitioners' Handling Of ISP Traffic, Has No Merit.

In his affidavit, Mr. Williams, on behalf of Alltel, claimed that Petitioners were exchanging ISP traffic under "bill and keep" compensation or a default rate of \$0.0007.⁵ Therefore, according to Mr. Williams, the reciprocal compensation rate of the Petitioners' interconnection agreements should be "\$0.000 or bill and keep."⁶

Mr. Williams' claim, that the reciprocal compensation for the interconnection agreement should be bill-and-keep or \$0.00 because of the Petitioners' handling of ISP traffic, is based on an erroneous interpretation and misapplication of the "New Market Rule" and the "Mirroring Rule" created by the Federal Communications Commission's ("FCC's") *ISP Remand Order* (FCC 01-131, released April 27, 2001).⁷ Thus, Alltel's claim that Petitioners' Reciprocal Compensation rates should be based on bill-and keep or a rate of \$0.00, has no merit and should be rejected by this Arbitration Panel.

The FCC's *ISP Remand Order* (released on April 27, 2001) created a compensation regime for Internet Service Provider ("ISP") traffic by establishing four rules:

1. Rate Caps. The regime consisted of a gradually declining cap on intercarrier compensation for ISP-bound traffic, beginning at \$.0015 per minutes of use ("MOU"). However, if a state had already set rates below the caps or imposed bill-and-keep for ISP-bound traffic, those rates would continue to apply. [*The rate is currently \$0.0007*].

⁵ Affidavit of Ron Williams, Case U-14889, p. 3, lines 20-21. Mr. Williams failed to cite the basis for his comments, but they appear to be distilled from the New Market Rule and the Mirroring Rule created in the FCC's *ISP Remand Order*, FCC 01-131, released on April 27, 2001.

⁶ Williams, page 3, line 22.

⁷ *Implementation of the Local Compensation Provisions in the Telecommunications Act of 1996; Intercarrier Compensation for ISP-bound Traffic, Order on Remand and Report and Order*, Released April 27, 2001. (*ISP Remand Order*).

2. Growth Caps. The FCC imposed a cap on total ISP-bound MOU, plus a ten percent growth factor.
3. Mirroring Rule. The FCC determined that the Rate Caps for ISP-bound traffic should only apply if an incumbent LEC ("ILEC") offered to exchange all traffic subject to 251 (B) (5) at the same rates.
4. New Market Rule. The FCC concluded that carriers who were not exchanging traffic pursuant to an interconnection agreement prior to the adoption of the ISP Remand Order shall exchange ISP-bound traffic on a bill-and-keep basis.

On October 18, 2004, the FCC granted forbearance with respect to the Growth Caps Rule and the New Market Rule to all telecommunications carriers effective October 8, 2004.⁸ Thus, the Growth Caps Rule and the New Market Rule are no longer in effect.

DISCUSSION

In support of Alltel's claim that ISP-bound traffic that is not exchanged pursuant to an interconnection agreement should be exchanged on a bill-and-keep basis, Mr. Williams cited the following comments from the *ISP Remand Order* relating to the New Market Rule:

. . . a different rule applies in the case where carriers are not exchanging traffic pursuant to an interconnection agreements prior to the adoption of this Order (where, for example, a new carrier enters the market or an existing carrier expands into a market it previously had not served.) In such case, as of the effective date of this Order, carriers shall exchange ISP-bound traffic on a bill-and-keep basis ⁹

However, the FCC, effective October 8, 2004, granted all telecommunications carriers forbearance from the New Market Rule upon which Mr. Williams relies. The FCC concluded that the New Market Rule was "no longer in the public interest" because

⁸ *Petition of Core Communications, Inc. For Forbearance Under 47 U.S.C. § 160(c) from Application of the ISP Remand Order*. WC Docket No. 03-171, released October 18, 2004).

⁹ Williams, p. 7, lines 15-21. Williams cites the FCC's *ISP Remand Order*, Para. 81.

it “created different rates for similar or identical functions.”¹⁰ Thus, Mr. Williams’ claim that the Petitioners are required to exchange ISP-bound traffic on a bill-and-keep basis because they were not exchanging traffic pursuant to an interconnection agreement prior to the *ISP Remand Order* has no merit and should be rejected by this Arbitration Panel.

Likewise, Mr. Williams’ claims regarding the “exchange of ISP traffic with other carriers, including affiliated and non-affiliated CLECs and ISPs,” and the rules regarding the “relationship between the compensation for ISP-bound traffic and compensation for 251 (b)(5) traffic, are misplaced.¹¹ In support of his assertions, Mr. Williams cites language from the Mirroring Rule created by the FCC’s *ISP Remand Order*:

Because we are concerned about the superior bargaining power of incumbent LECs, we will not allow them to “pick and chose” intercarrier compensation regimes, depending on the nature of the traffic exchanged with another carrier. The rate caps for ISP-bound traffic that we adopt here apply, therefore, only if an incumbent LEC offers to exchange all traffic subject to section 251 (b) (5) at the same rate. Thus, if the applicable rate is \$0.010/mou, the ILEC must to exchange section 251 (b) (5) traffic at the same rate. Similarly, if an ILEC wishes to continue to exchange ISP-bound traffic on a bill and keep basis in a state that has ordered bill and keep, it must offer to exchange all section 251 (b) (5) traffic on an [*sic:a*] basis.¹²

Yet, a plain reading of the above language from the Mirroring Rule shows that ILECs are only required to “exchange all traffic subject to section 251 (b) (5) at the same rate” as ISP-bound traffic when 1) the ILEC adopts the rate caps for ISP-bound traffic

¹⁰ *Petition of Core Communications, Inc. For Forbearance Under 47 U.S.C. § 160(c) from Application of the ISP Remand Order (“Core Order”)*. WC Docket No. 03-171, (released October 18, 2004).

¹¹ In his affidavit, Mr. Williams asserts that some of the Petitioners have ISP affiliates and that Petitioners are required to have interconnection agreements with these affiliates on file with the Commission for the termination of ISP-bound traffic. (Williams, p. 9, lines 6-13). Nonetheless, ISP’s are end users, not telecommunications carriers, and there is no requirement to have interconnection agreements with ISP’s for this reason.

¹² Williams, pp. 10-11, lines 20-25, 1-4.

pursuant to the *ISP Remand Order*; or 2) the “ILEC wishes to continue to exchange ISP-bound traffic on a bill and keep basis in a state that has ordered bill and keep.”¹³

Contrary to Mr. Williams’ assertions, none of the Petitioners have adopted the Rate Caps (now \$0.0007/mou) for ISP-bound traffic from the *ISP Remand Order*. Further, the Commission, prior to the *ISP Remand Order*, did not order on a state-wide basis that all carriers were to exchange ISP-bound traffic on a bill-and-keep basis. Thus, neither of the two circumstances in the Mirroring Rule where an ILEC would be required to exchange all 251 (b) (5) traffic at the ISP-bound traffic is applicable to Petitioners.

Moreover, when the New Market Rule was in effect, those carriers subject to the New Market rule were required to exchange ISP-bound traffic on a bill-and-keep basis. However, those carriers subject to the New Market Rule, who were exchanging ISP-bound traffic on a bill-and-keep basis, were still permitted to receive compensation for other 251 (b) (5) reciprocal compensation at their state-approved rates.¹⁴ Hence, the FCC’s rationale that the New Market Rule created “created different rates for similar or identical functions,” and reason for granting forbearance from the New Market Rule to all telecommunications carriers.¹⁵

¹³ *ISP Remand Order*, Para.89, p. 43. The FCC further noted that where “a state has ordered bill and keep for ISP-bound traffic only with the respect to a particular interconnection agreement, as opposed to state-wide, we do not require the incumbent LEC to offer to exchange all section 251 (b)(5) traffic on a bill and keep basis.

¹⁴ In discussing the New Market Rule the FCC noted, “we believe that a standstill on any expansion of the old compensation regime into new markets is the more appropriate interim answer. Second, unlike those carriers that are presently serving ISP customers under existing interconnection agreements, carriers entering new markets to serve ISPs have not acted in reliance on reciprocal compensation revenues and thus have no need of a transition during which to make adjustments to their prior business plans.” *ISP Remand Order*, Para. 81, p.38.

¹⁵ While discussing its reasons why the New Market Rule and Growth Factor Rule were no longer in the public interest and forbearance from them should be granted, the FCC noted, “the compensation rate for ISP-bound traffic in these circumstances [New Market Rule and Growth Factor Rule] is different than the rate that applies to ISP-bound traffic under the rate caps or to section 251 (b) (5) traffic under the reciprocal compensation regime.” *Core Order*, Para. 24.

Petitioner's maintain that the Mirroring Rule requires carriers to exchange all 251 (b) (5) traffic at the same rate as ISP-bound traffic only when the carrier has adopted the Rate Caps (now 0.0007) from the *ISP Remand Order* or a state commission has ordered, on a state-wide basis, that all ISP-bound traffic should be exchanged on a bill-and keep basis. Since the Petitioners have not adopted the Rate Caps from the *ISP Remand Order* and the Commission has not established a state-wide exchange of ISP-bound traffic on a bill-and-keep basis, the Mirroring Rule is not applicable in this arbitration proceeding.

B. Petitioners Are Exchanging ISP-Bound Traffic At Their State-approved Rates Pursuant To Tariffs On File With The Commission.

Mr. Williams' claims that the Petitioners are exchanging ISP-bound traffic under "bill and keep" compensation or a "default ISP rate of \$0.0007," are misplaced because Petitioners are exchanging ISP-bound traffic at their state-approved rates pursuant to tariffs on file with the Commission.

In its *ISP Remand Order*, the FCC determined the proper rates that should be used by ILECs that choose not to adopt the rate caps for ISP-bound traffic:

For those incumbent LECs that choose *not* to offer to exchange section 251 (b) (5) traffic subject to the same rate caps we adopt for ISP-bound traffic, we order them to exchange ISP-bound traffic at the state-approved or state-arbitrated reciprocal compensation rates in their contracts.¹⁶

In Michigan, the Commission has determined that "interconnection can be accomplished by agreement or tariff."¹⁷ A tariff is a form of contract that can be filed with a state commission that has a long history of use in the telecommunications industry throughout the United States and the State of Michigan.

¹⁶ *ISP Remand Order*, Para. 89, pp. 43-44.

DISCUSSION

None of the Petitioners have adopted the Rate Caps from the *ISP Remand Order* and the Commission has not ordered, on a state-wide basis, that all ISP-bound traffic is to be exchanged on a bill-and-keep basis. Consequently, Petitioners are required to exchange ISP-bound traffic at their “state-approved or state-arbitrated reciprocal compensation rates.”¹⁸

Petitioners exchange ISP-bound traffic pursuant to their state approved rates based on tariffs filed with the Commission.¹⁹ Petitioners (except Ace Telephone Company, Barry County Telephone Company, Upper Peninsula Telephone Company, and Waldron Telephone Company) are issuing carriers in the Michigan Exchange Carriers Association, Inc.’s (“MECA’s”) Local Transport and Termination Service, MPSC Tariff No. 23R, which is on file with the Commission. These Petitioners exchange local traffic subject to Section 251 (b) (5) reciprocal compensation, including ISP-bound traffic, pursuant to this tariff based on their state-approved rates that are the result of a Total Service Long Run Incremental Cost (“TSLRIC”) study approved by the Commission.

The other Petitioners (Ace Telephone Company, Barry County Telephone Company, Upper Peninsula Telephone Company, and Waldron Telephone Company) also exchange local traffic subject to Section 251 (b) (5) reciprocal compensation, including ISP-bound traffic, pursuant to their respective local tariffs or expanded area service tariffs filed with the Commission based on their state-approved rates. These rates are also based on a TSLRIC studies approved by the Commission.

¹⁷ *Bierman v CenturyTel of Michigan, Inc.* Case No. U-11821 (April 12, 1999), p. 11.

¹⁸ *ISP Remand Order*, Para. 89, pp. 43-44.

¹⁹ Petitioners, prior to the *ISP Remand Order*, exchanged ISP-bound traffic at state-approved rates pursuant to tariff’s filed with the Commission as well.

The FCC, in its *ISP Remand Order*, took exclusive jurisdiction over the determination of compensation for ISP-bound traffic.²⁰ Therefore, state commissions no longer have authority to address issues relating to intercarrier compensation for ISP-bound traffic. Consequently, only the FCC can determine whether a tariff is a proper method for an ILEC to receive compensation for ISP-bound traffic.

Disputes over intercarrier compensation for ISP-bound traffic are commonplace in Michigan. There are a number of issues being disputed by Petitioners and other carriers. Generally, Petitioners receive interexchange traffic from either AT&T (formerly SBC) or Verizon. Petitioners like Chippewa County Telephone Company, Hiawatha Telephone Company, Midway Telephone Company, and Ontonagon Telephone Company bill for the termination of ISP-bound traffic pursuant to MECA's MPSC Tariff No. 23R at their state approved rates. However, AT&T disputes these Petitioners' right to bill at their state approved rates despite the fact that they are required to do so pursuant to the *ISP Remand Order*.²¹ Instead, AT&T, who has adopted the ISP Remand Order's rate cap for ISP-bound traffic, which is higher than AT&T's local termination rates, insists that it will pay only the 0.0007 rate from the *ISP Remand Order*. AT&T is also disputing invoices for ISP-bound traffic for the above reasons from Allendale Telephone Company, Barry County Telephone Company, Deerfield Farmers' Telephone Company, and Pigeon Telephone Company, and Winn Telephone Company as well.

Verizon apparently has taken the position that it does not have to pay compensation for its own local traffic terminated to Petitioners' network, including ISP-

²⁰ *ISP Remand Order*, Para. 82, p. 39.

²¹

bound traffic. Petitioners Blanchard Telephone Company, Bloomingdale Telephone Company, Deerfield Telephone Company, Ogden Telephone Company, Pigeon Telephone Company, Upper Peninsula Telephone Company are similarly affected.

Virtually all Petitioners have received invoices for the termination of ISP-bound traffic from CLEC's like Lucre or Telnet Worldwide. These invoices for the termination of ISP-bound traffic have been disputed by Petitioners for a number of reasons: (1) the invoices improperly bill the traffic at the Petitioners' switched access rates, (2) the invoices try to impose the 0.0007 rate cap regime on Petitioners, (3) the traffic being terminated is Virtual NXX traffic where the CLEC does not have a physical presence in the exchange (Petitioners' position is that the FCC had not yet determined whether VNXX ISP-bound traffic is subject to reciprocal compensation), (4) the invoicing CLEC has not sent a bona fide request for negotiation of an interconnection agreement pursuant to Section 252 of the Federal Act.

Petitioners have not adopted the *ISP Remand Order* rate cap of 0.0007. They are entitled to exchange traffic for ISP-bound traffic at their state-approved rates. Petitioners currently exchange ISP-bound traffic, and other Section 251 (b) (5) traffic at their state approved rates pursuant to tariffs filed with the Commission.

Respectfully Submitted,

 Steve Gatto
Digitally signed by Steve Gatto
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Date: 2006.07.13 16:46:09 -04'00'

Date: July 13, 2006

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