

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

**ALLTEL COMMUNICATONS, INC.'S RESPONSE TO THE
QUESTIONS IN THE PANEL'S JUNE 30, 2006 LETTER TO
THE PARTIES**

In its June 30, 2006 letter, the Arbitration Panel has requested Alltel to explain how the supporting material attached to Mr. Williams' testimony and affidavit supports the conclusion that Petitioners exchange ISP traffic on a bill and keep basis and to explain any distinctions between Alltel and the Verizon Wireless situation which was previously arbitrated at this Commission.

PANEL QUESTION #1. Please explain how the supporting material attached to Mr. Williams's affidavit supports his conclusion that Petitioners exchange ISP traffic on a bill and keep basis, or at a rate lower than Petitioners seek for reciprocal compensation in this proceeding? Does Alltel have any additional information to support its claim?

The materials attached to Mr. Williams' testimony prove what is common knowledge, i.e. that Petitioners' customers originate dial up internet traffic which the Petitioners transport to ISPs and terminate on those ISPs. Some of the relevant ISPs are affiliates of a Petitioner and others are not affiliated companies. As discussed by Mr. Williams, ISP traffic is 251(b) traffic and is subject to the same reciprocal compensation requirements as is other 252(b) traffic like wireless to wireline traffic. This ISP traffic termination by Petitioners, coupled with the bill and keep arrangement which Petitioners have with the terminating carrier as evidenced by the lack of

any filed agreement that addresses compensation for this traffic, leads to the conclusion that Petitioners are required to offer Alltel the same bill and keep arrangement for Alltel traffic terminated to Petitioners.

The following facts illustrate the example of traffic originating on Petitioner network or other carrier networks and terminating as ISP traffic within Petitioner service area¹:

- Petitioner ISP affiliates maintain dial-up internet access services in Petitioner service areas.
- Petitioner ISP affiliates promote their dial-up internet services within and outside of their LEC service areas.
- Petitioner affiliates are presumed to have dial-up internet customers.
- Other ISPs offering dial-up access within a Petitioner rate center are presumed to have dial-up internet customers.
- Petitioner customers and, in some cases, customers served by other LECs use their modems to call these dial-up internet numbers and those calls are carried via their local telecommunications provider and traffic is terminated to the internet provider in Petitioner service area by the Petitioner.
- No interconnection agreement is on file with the Commission or the FCC that provides the Petitioner compensation for the termination of this traffic.
- Petitioners, as incumbent LECs, are required to file all interconnection agreements with the Commission pursuant to Section 252(e) of the Telecom Act.

Similarly, the following outlines the facts associated with traffic originating on a Petitioner network and terminating as ISP traffic outside of a Petitioner service area²:

- ISP's maintain dial-up internet access services in service areas accessible by Petitioner customers as a local call (e.g., extended area service from Allendale to Grand Rapids).³
- ISP's offer and promote their dial-up internet services to Petitioner customers.

¹ This condition pertains to all Petitioners except Blanchard Telephone.

² This condition pertains to the following Petitioners: Allendale, Blanchard, Barry County, Chippewa County, Deerfield, Hiawatha, Midway, Ogden, Ontonagon, Pigeon, Upper Peninsula, and Winn.

³ Examples of this condition are contained in Exhibit A.

- ISP's have some dial-up internet customers that are also Petitioner customers.
- Petitioner customers use their modems to call these dial-up internet numbers and those calls are originated on the Petitioner network and are terminated to the internet provider via the network of another LEC. CLECs are also known to provide dial-up internet hosting services in local calling areas accessible to certain Petitioner customers.
- No interconnection agreement is on file with the Commission that provides the ISP compensation for the termination of this traffic.
- All incumbent LECs are required to file all interconnection agreements with the Commission pursuant to Section 252(e) of the Telecom Act.

Therefore, with respect to both of the above examples, unless it is presumed that Petitioners are in violation of Section 252(e) of the Telecom Act, have negotiated agreements with equivalent reciprocal compensation rates to those demanded from Alltel, and are not filing their agreements, then the necessary conclusion is that the traffic delivered by Petitioners to telephone numbers publicly advertised as dial-up internet access and therefore ISP traffic, is traffic exchanged under bill and keep because no agreement has been filed with the Commission. Petitioners are not be allowed to discriminate among 251(b) traffic by charging Alltel for traffic terminated on Petitioners network while Petitioners pay no compensation to terminate their ISP traffic to others. Petitioners also can not accomplish such discrimination by simply not filing or documenting their bill and keep arrangement with respect to ISP traffic.

Unfortunately, the manner in which this and other arbitrations are conducted before this Commission, Alltel is not able to avail itself of discovery which would further prove the above facts and the existence of this discrimination.

In response to the Arbitration Panel's inquiry as to whether Alltel has any additional information to support its claims that Petitioners exchange ISP traffic on a bill and keep basis, Alltel offers the following:

- Alltel has and is calling various CLECs that are known to provide service for dial-up Internet Service Providers. Alltel has been unable to identify any CLECs that have negotiated compensation for the exchange of ISP traffic with Petitioners.
- Alltel has confirmed the assignment of certain dial-up internet access numbers, referenced in the documentation supporting Mr. Williams' testimony that are assigned to carriers that do not have an interconnect agreement with any of the Petitioners. This information is presented in Exhibit A.

PANEL QUESTION #2. Does Alltel distinguish its position in this arbitration from the position of Verizon Wireless in Case No. U-14678? If so, how?

Yes, Alltel believes its position is distinguished with respect to, among others, the following:

- Alltel has invoked the rules set forth in the FCC's ISP Order with respect to the Petitioners' exchange of ISP traffic which entitles Alltel to similar compensation arrangements.
- Interim compensation was expressly requested by Petitioners and Alltel agrees that such is applicable on a reciprocal basis and subject to true up to final rates between Alltel and each Petitioner⁴ but only if a rate other than bill and keep is determined to be the final rate. In the event a rate is necessary, which Alltel disputes as it believes bill and keep is appropriate, Alltel has taken the initiative to calculate default interim compensation rates based on FCC default interim compensation rules (see Brandt Testimony). Alltel's interim compensation rates should be the applicable rates until such time as the Commission issues its final order on applicable compensation rates at which time the final ordered rate would be made retroactive to the agreed upon effective date of the interconnection agreement and any interim compensation paid would be 'trued-up' between the parties to be consistent with the final arbitrated compensation rate. Final rates, however, can only be determined based on an FCC compliant cost study that is filed in a proceeding in which Alltel is allowed to fully participate, must be based on Petitioner specific, not average costs, and must follow FCC rules.
- Alltel has provided testimony that rates provided by Petitioners' that represent an averaged cost derivation⁵ cannot meet the FCC's standard that a rate cannot exceed the forward looking economic cost of an incumbent LEC (see Williams Testimony Page 17 lines 1-22 and C.F.R. Section 51.505(e)).

Alltel appreciates the opportunity to further respond with respect to the very important questions. Alltel would welcome the opportunity to further develop these matters through proper discovery, hearings and such other due process assuring procedures that would more thoroughly develop the record for a full and proper decision in accordance with FCC and Commission rules and law. Therefore, Alltel recommends that, in the event the Panel can not find that bill and keep or alternatively the Conwell developed rates are not required, the Panel should defer the determination of final rates to a generic cost proceeding in which proper current studies are required and all parties are allowed to fully and adequately participate.

⁴ With the exception of Blanchard Telephone which did not request interim compensation.

⁵ Specifically, those Petitioners claiming compensation rates based on MECA's 2nd TSLRIC study are claiming do not meet the threshold test of Section 51.505(e).

ALLTEL COMMUNICATIONS, INC.

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