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RECEIVED

APR 11 2005

PUBLIC SERVICE
COMMISSION

April 11, 2005

Ms. Elizabeth O'Donnell, Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
Frankfort, Kentucky 40602-0615

Case 2005-00153

Dear Ms. O'Donnell:

On behalf of Kentucky ALLTEL, Inc. (the Company), I have enclosed for filing with the Kentucky Public Service Commission (PSC) an original and nine (9) copies of a petition for tariff approval and revised tariff sheets for its General Customer Services Tariff:

| <u>SECTION</u> | <u>TITLE</u> | <u>REVISION</u> | <u>SHEET NO.</u> |
|----------------|---------------------------|-----------------|------------------|
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This tariff filing would permit Kentucky ALLTEL to offer discounted bundles of services to customers in an area when another provider is offering a communications service in the same area. **This tariff would not permit increases in any rates.** Approval of this tariff will allow Kentucky ALLTEL to timely respond to its customers' needs. Customers expect Kentucky ALLTEL to offer competitive options as provided for in this proposed tariff. Customers (particularly residential customers) with competitive alternatives will not tolerate non-competitive pricing arrangements.

Kentucky ALLTEL is competing against non-traditional LECs, wireless carriers, cable providers, and providers using technologies such as voice of Internet protocol ("VoIP") but cannot respond effectively to targeted competition because it faces significant regulatory obstacles that its competitors do not face. Customers do not receive the benefit of competition if certain companies must comply with regulatory restrictions before offering new services or prices. Different competitors offer different services, at different prices, in different markets. Kentucky ALLTEL must be permitted to respond to customer demands on a market-specific basis. Kentucky consumers benefit when all providers are allowed to compete for their business in a free and open marketplace and tailor services to meet their individual needs.

As set forth above, Kentucky ALLTEL needs expedited relief and, therefore, requests that the Commission grant its Petition and approve the tariff filing based on the verified facts in the Petition and without the need for a protracted proceeding. Should you have any questions regarding this request, please call me at (859) 271-8324.

Sincerely,

Daniel Logsdon

cc: Chairman Mark David Goss
Vice Chair Ellen Williams
Commissioner W. Gregory Coker
Jason Bentley, General Counsel

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED
APR 11 2005
PUBLIC SERVICE
COMMISSION

In the Matter of:

PETITION BY KENTUCKY ALLTEL,)
INC. FOR TARIFF APPROVAL) **Case No. 2005-00153**
)

PETITION FOR TARIFF APPROVAL

Kentucky ALLTEL, Inc. ("Kentucky ALLTEL") petitions the Kentucky Public Service Commission ("Commission") for approval of the tariff filing attached hereto pursuant to K.R.S. §278.512 and 807 K.A.R. 5:011 and, in support of this Petition, states as follows:

1. Kentucky ALLTEL is an incumbent local exchange company ("ILEC") providing telecommunications services in several exchanges within the Commonwealth and is headquartered at 230 Lexington Green Circle, Suite 605, Lexington, Kentucky. Kentucky ALLTEL's Articles of Incorporation are on file with the Commission in Administrative Case No. 2001-399.
2. **Kentucky ALLTEL is seeking approval for a revision to its tariff so that ALLTEL can timely respond to its customers in competitive circumstances.** In short, Kentucky ALLTEL cannot effectively compete with non-traditional LECs, wireless carriers, cable providers, and providers using technologies such as voice over Internet protocol ("VoIP") because Kentucky ALLTEL faces regulatory obstacles that these other entities do not. Customers expect Kentucky ALLTEL to be able to match or exceed the competitive service offerings provided by these companies.

Kentucky ALLTEL is seeking the flexibility set forth herein to offer customers in certain locations combinations of value-added services on effective terms.

3. The attached proposal ("Exhibit A") is an amendment to Kentucky ALLTEL's General Customer Services Tariff ("tariff filing"), that would allow Kentucky ALLTEL to provide location-specific service offerings to customers in areas where another communications company is providing service. This tariff filing would enable Kentucky ALLTEL to meet its customers' needs and respond to competition in a timely manner. Kentucky ALLTEL could develop rates, terms, and conditions on a geographic-specific, or location-specific, basis in response to competition. **The proposed would not allow Kentucky ALLTEL to increase any rates above those in its currently approved tariff.**
4. K.R.S. §278.512 allows the Commission to exempt telecommunications services/products or providers from statutes and to adopt alternative requirements for establishing rates and charges upon demonstration that such action is in the public interest. Additionally, Commission Regulation 807 K.A.R. 5:011 Section 14 permits the Commission to deviate from its rules upon a showing of good cause. Evidence of the competitive communications environment in which Kentucky ALLTEL operates satisfies both of these standards and supports the conclusion that it is in the public interest and there exists good cause to approve the tariff filing and permit Kentucky ALLTEL the requested flexibility to better serve customers.
5. K.A.R. 5:011 allows the Commission to provide a waiver of its rules upon a determination of good cause, and exemption from any statute in K.R.S. Chapter 278 is available upon consideration of the criteria under K.R.S. §278.512. The

exemption criteria are: (1) the extent to which competing services are available from competitive providers in the relevant market; (2) the existing ability and willingness of competitive providers to make functionally equivalent or substitute services readily available; (3) the number and size of competitive providers of service; (4) the overall impact of the proposed regulatory change on the continued availability of existing services at just and reasonable rates; (5) the existence of adequate safeguards to assure that rates for regulated services do not subsidize exempted services; (6) the impact of the proposed regulatory change upon efforts to promote universal availability of basic telecommunications services at affordable rates and upon the need of telecommunications companies subject to the jurisdiction of the Commission to respond to competition; (7) whether the exercise of Commission jurisdiction inhibits a regulated utility from competing with unregulated providers of functionally similar telecommunications services or products; (8) the overall impact on customers of a proposed change to streamline regulatory treatment of small or nonprofit carriers; and (9) any other factors the Commission may determine are in the public interest. Clearly, these criteria are satisfied in this case as demonstrated below.

6. The specific flexibility requested in this petition would permit Kentucky ALLTEL to offer bundles of services (including regulated and non-regulated and affiliated and non-affiliated resold services) to customers in an area when another provider is offering a communications service in the same area. Bundles could be offered in the area at rates below, but not higher than, the combined current tariffed rates of the separate services and would be above Kentucky ALLTEL's cost to provide the bundle. These offerings would become effective one day after Kentucky ALLTEL

notified the Commission. Such location-specific flexibility is not only in the public interest to meet customers' needs but is absolutely necessary to permit Kentucky ALLTEL to deliver the benefits of true competition to consumers. Therefore, the proposed tariff is consistent with the criteria set forth in K.R.S. §278.512.

7. The first three and the seventh criteria under K.R.S. §278.512 pertain generally to the availability of services from competitive sources. Services such as basic service, non-basic custom calling features like Call Waiting or Caller ID, and broadband services are available in Kentucky ALLTEL's territory from various competitive sources including, but not limited to, competitive local exchange carriers ("CLECs"), wireless providers, cable providers, satellite providers, Internet service providers ("ISPs"), and VoIP providers. These competitors are providing to residential and business telecommunications customers in Kentucky ALLTEL's territory the same services (or the functionally equivalent or substitute services) as those offered by Kentucky ALLTEL, however these companies are able to offer specific service offerings designed to meet a specific customers needs at any location and at any time.
8. The United States Congressional Budget Office estimates that more than one third of all calls will be Internet-based by 2009, and more than 14 million Americans have already placed phone calls over the Internet. Today, more than 8 million Americans have only a wireless telephone. In 2004, more Americans connected to the Internet with broadband than with dial-up, and VoIP subscribers number approximately 1 million compared to 130,000 the previous year. These competitors, however, are not burdened by the same regulatory restrictions as Kentucky ALLTEL. In an August 8,

2000 decision in Administrative Case Nos. 359 and 370, the Commission exempted CLECs from all tariffing requirements except general requirements to provide tariffs and revisions thereto upon 30 days' notice to the Commission. For instance, CLECs may file special promotions upon one day's notice. In reaching its decision, the Commission noted:

"When evaluating the reasonableness of regulatory exemptions, the Commission is bound by KRS 278.512 and 278.514...One consideration in determining public interest is the reduction of resources dedicated to regulatory activities no longer required to protect the public...Elimination of unnecessary record-keeping enables this Commission to expend its administrative resources elsewhere." (Emphasis added.)

It is in the public interest to allow Kentucky ALLTEL to respond to its customers' needs with location-specific bundles since the competitive market displaces the need for regulatory restrictions. Very simply, customers with competitive alternatives will not tolerate unreasonable service offerings or discriminatory practices. Competition leads to consumer choice and innovative service offerings. As regulatory oversight is being replaced by market oversight, exemption of Kentucky ALLTEL's tariff filing from regulatory pricing and filing restrictions is reasonable and necessary to keep pace with the changing marketplace.

9. By way of further example, cable providers offering residential telephony service within Kentucky ALLTEL's territory offer service at any price and only to the type of consumers they choose. These competitors bundle residential telephone service with video service and restrict the bundled offers as they choose. By next year, approximately 55 million American households will be able to buy phone service from their cable companies, which are free to set rates on a "door-to-door" basis

immediately upon talking to customers. For instance, Insight Cable of Lexington establishes its communications rates based on its review of a bill from the customer's traditional local telephone company. Insight then offers customized packages and prices to the customer. In the eighteen-month period ended September 2004, Kentucky ALLTEL lost over 7,000 customers to Insight in Lexington, largely due to regulatory constraints that prevented Kentucky ALLTEL from offering competitive responses. Exempting Kentucky ALLTEL's proposed tariff from any apparent statutory restriction merely provides Kentucky ALLTEL the opportunity to timely respond to competitors like Insight in certain locations, thereby establishing true competition and a wider array of choice for consumers.

10. Unlike Kentucky ALLTEL, these non-traditional carriers can serve "localities" smaller in scope than an entire exchange or wire center such as a city block or particular customer. The ability of competitors to target specific areas necessarily creates different conditions under which Kentucky ALLTEL must operate, and it is unreasonable to deny consumers the benefit of allowing Kentucky ALLTEL to respond to these targeted competitive service offerings in the same manner as other entities competing in that "locality." A traditionally regulated utility such as Kentucky ALLTEL must be allowed to exercise pricing flexibility with respect to a certain locality where competitive conditions exist, and customers, therefore, be granted a true choice among competing providers.

11. With respect to the fourth and sixth criteria, approval of Kentucky ALLTEL's tariff filing would help ensure the continued availability of existing services at just and reasonable rates. Restricting Kentucky ALLTEL, serves only to erode Kentucky

ALLTEL's customer base, not as a result of any competitive innovation but merely due to unnecessary regulatory restraint that denies Kentucky ALLTEL the ability to compete and retain customers. These arbitrary and unnecessary administrative burdens result in a loss of revenues which in turn results in less support for high cost areas of the Commonwealth thereby threatening universal service. These circumstances jeopardize Kentucky ALLTEL's ability to maintain a quality network, expand broadband, introduce innovative services and provide universal service at affordable rates throughout its territory.

12. The fifth criterion requires the Commission to consider the existence of adequate safeguards to assure that rates for regulated services will not subsidize exempted services. Kentucky ALLTEL's tariff filing provides that Kentucky ALLTEL must verify that any location-specific offerings are offered above Kentucky ALLTEL's cost to provide the bundle. This provision will ensure that these services are not receiving subsidies from other regulated services. Additionally, the proposed tariff would not allow increases in non-exempt rates.
13. Eighth, K.R.S. §278.512 directs the Commission to consider the overall customer impact of the proposed change to streamline regulatory treatment of small or nonprofit carriers. This criterion is not applicable with respect to Kentucky ALLTEL's tariff filing.
14. In considering the ninth criterion (*i.e.*, any other factors that may be deemed to be in the public interest), the Commission should consider that Kentucky ALLTEL's tariff filing is consistent with Governor Fletcher's indication that it is necessary to ease

regulatory roadblocks and enact pro-business policies in order to benefit Kentucky's economy.

15. The Commission should consider that other states have granted flexibility to requesting carriers that goes much farther toward establishing unencumbered competition than that being requested in this instance by Kentucky ALLTEL: For example:

- a) Arkansas - In an exchange where competitors are providing similar services, alternatively regulated ILECs have full pricing flexibility, including basic local service.
- b) Georgia - Alternatively regulated ILECs have complete pricing flexibility on everything except basic residential and one-line business services.
- c) North Carolina - Promotional pricing can be targeted to specific areas, and flexible pricing is available through contract service arrangements.
- d) South Carolina - ILECs can elect statutory alternative regulation without Commission approval and gain pricing flexibility on non-basic services, provided that rates are not below costs. ILECs have the flexibility to offer bundles, contracts, or rates on an exchange specific basis provided that each service in the offering is tariffed on a stand-alone basis.
- e) Nebraska - Telecommunications companies are not subject to basic local exchange service rate regulation by the Commission.
- f) Florida - Companies with greater than 100,000 access lines may elect statutory alternative regulation, under which they may meet offerings by any competitive provider of the same, or functionally equivalent, nonbasic services in a specific geographic market or to a specific customer, using volume and term discounts and offering individual contracts.
- g) Pennsylvania - ILECs may reduce prices on services offered within an exchange below the rates set forth in their tariffs in order to respond to competition.

16. Approving Kentucky ALLTEL's tariff filing would be one step toward allowing all carriers in a given territory to fairly meet customers' demands in a timely manner. Real, unencumbered competition frequently results in increased technological innovations and network expansion. For the reasons set forth above, exempting Kentucky ALLTEL's tariff filing from all existing statutory impediments is clearly in the public interest pursuant to K.R.S. §278.512.

17. The above also supports a showing of good cause to exempt Kentucky ALLTEL's tariff filing from any counteracting Commission regulations. Again, it is reasonable to allow Kentucky ALLTEL to serve customers in the same way its competitors already do -- by responding in a timely and meaningful manner with additional customer choices. Kentucky ALLTEL must be able to offer customers location-specific terms, rates, and conditions on a less burdensome basis than that currently provided under Commission regulations. Customers (particularly residential customers) with competitive alternatives will not tolerate non-competitive pricing arrangements. Therefore, good cause exists to grant Kentucky ALLTEL's tariff filing and exempt Kentucky ALLTEL from the Commission's regulations as necessary pursuant to 807 K.A.R. 5:011 Section 14.

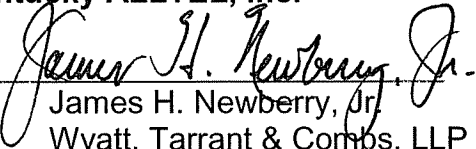
18. In conclusion, exempting Kentucky ALLTEL's tariff filing from any regulatory or statutory impediments is in the public interest, supported by good cause, consistent with trends in many other states, and, most importantly, vital to Kentucky ALLTEL's ability to satisfy customers' demands in a timely manner. Consumers will benefit by the implementation of this proposed tariff.

WHEREFORE, Kentucky ALLTEL respectfully requests that the Commission grant this Petition based on the verified facts set forth herein; approve the tariff filing attached as Exhibit "A"; issue a finding that the tariff filing is in the public interest pursuant to K.R.S. §278.512 and exempt from any statute in K.R.S. Chapter 278 to the contrary; issue a finding that there is good cause pursuant to 807 K.A.R. 5:011 Section 14 to deviate from any Commission regulation that would otherwise serve to restrict the tariff filing; and grant all other just relief to which Kentucky ALLTEL may be entitled.

Dated: April 11th, 2005.

Respectfully submitted,

Kentucky ALLTEL, Inc.

By: 
James H. Newberry, Jr.
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Lexington, KY 40507-1746
Telephone: 859-233-2012
Facsimile: 859-259-0649

AFFIDAVIT

STATE OF KENTUCKY)
)
COUNTY OF FAYETTE)

SS:

DANIEL LOGSDON, being duly sworn according to law, deposes and says that he is DANIEL LOGSDON, and that in this capacity he is authorized to and does make this Affidavit on behalf of Kentucky ALLTEL, Inc. ("Kentucky ALLTEL"), and that the facts set forth in the foregoing Petition are true and correct to the best of his knowledge, information and belief and that Kentucky ALLTEL needs this flexibility on an expedited basis in order to serve customers and respond to competitive circumstances.

D. LOGSDON

Sworn and Subscribed to before me this 11th day of April, 2005.

(SEAL)

Phyllis C. Masters
Notary Public

My Commission Expires:

MARCH, 2006

EXHIBIT “A”

to the

**PETITION OF
KENTUCKY ALLTEL, INC.
FOR TARIFF APPROVAL**

GENERAL CUSTOMER SERVICES TARIFF

KENTUCKY ALLTEL, INC.

**P.S.C. KY. No. 1
3rd Revised Contents Page 1
Cancels 2nd Revised Contents Page 1
EFFECTIVE:**

ISSUED:
**BY: Vice President, External Affairs
Lexington, Kentucky**

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S103. DISCONTINUED BASIC LOCAL EXCHANGE SERVICE

GENERAL CUSTOMER SERVICES TARIFF

KENTUCKY ALLTEL, INC.

**P.S.C. KY. No. 1
Second Revised Contents Page 1
Cancels First Revised Contents Page 1
EFFECTIVE:**

ISSUED:
**BY: Vice President, External Affairs
Lexington, Kentucky**

S17. BUNDLED SERVICE OFFERINGS

(N)

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GENERAL CUSTOMER SERVICES TARIFF

KENTUCKY ALLTEL, INC.

P.S.C. KY. No. 1
2nd Revised Page 1
Cancels 1st Revised Page 1
EFFECTIVE:

ISSUED:
BY: Vice President, External Affairs
Lexington, Kentucky

S17. BUNDLED SERVICE OFFERINGS

S17.1 Definitions

Bundled Services - Kentucky ALLTEL, Inc. ("Company") may offer bundles of services to customers in an area when another provider is offering a communications service in the same area. Bundles may include regulated and non-regulated services, as well as, resold services of an affiliate or of a non-affiliate. These bundles will be offered in the area and at rates not exceeding the combined current tariffed rates of the separate services included in the bundle. These offerings shall become effective one day after the Company notifies the Commission and provides a certification that the bundle is not being offered below the Company's cost to provide the bundle.

(N)
|
(N)

GENERAL CUSTOMER SERVICES TARIFF

KENTUCKY ALLTEL, INC.

**P.S.C. KY. No. 1
2nd Revised Page 2
Cancels 1st Revised Page 2
EFFECTIVE:**

ISSUED:
**BY: Vice President, External Affairs
Lexington, Kentucky**

S17. BUNDLED SERVICE OFFERINGS

S17.2 Location-Specific Bundled Services

1. Lexington Residential Service Bundle No. 1

Consists of residential one party service in the Lexington exchange, Caller ID – Deluxe, Call Waiting, Cancel Call Waiting, Voice Mail Link, deregulated Voice Mail and two hours of nationwide long distance provided by ALLTEL Communications, Inc.

Bundle Rate - \$29.90

(N)

(N)

GENERAL CUSTOMER SERVICES TARIFF

KENTUCKY ALLTEL, INC.

P.S.C. KY. No. 1
Original Page 20.1

ISSUED: March 7, 2005

Effective: April 6, 2005

BY: Vice President, External Affairs
Lexington, Kentucky

S2. GENERAL REGULATIONS

S2.3 Establishment and Furnishing of Service (Continued)

S2.21 Contracts

Contracts may be used by Kentucky ALL.TEL, Inc. (the Company) to price according to individual customers' needs. The Company may enter into individual contracts with its customers for any services to address competitive or other unique circumstances. The Company will file the contract with the Kentucky Public Service Commission (the Commission) and the contract will become effective on the day of signing and approved on the 30th day, unless suspended by the Commission. The Company may seek pre-approval of contractual arrangements. Once approved under the 30 day process, individual customer contracts that meet the parameters of the pre-approved contract shall be considered approved upon filing with the Commission. The Company may request confidential and proprietary status of selected aspects of its contracts.