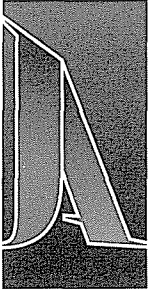


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AMLUNG
LAW OFFICES

April 22, 2006

Ms. Beth A. O'Donnell
Executive Director
Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602

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APR 24 2006

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COMMISSION

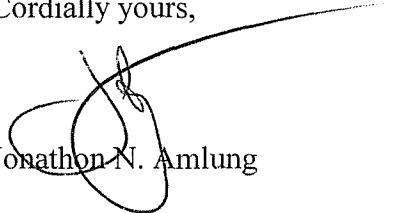
**RE: *Kentucky ALLTEL, Inc., and ALLTEL
Kentucky, Inc.'s Intent to Transfer Assets
to Valor Communications Group, Inc.,
Case Number 2005-00534.***

Dear Ms. O'Donnell:

Please find enclosed for filing an original and ten (10) copies of the testimony of Mark I. Hayes for filing in the above-referenced case on behalf of ALEC, Inc.

Thank you for your attention to this matter. Please do not hesitate to contact me should you have any questions or concerns.

Cordially yours,


Jonathon N. Amlung

Enclosures

cc: Parties of Record

BEFORE THE
COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

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COMMISSION

In the Matter of:

APPLICATION FOR APPROVAL OF THE)
TRANSFER OF CONTROL OF ALLTEL)
KENTUCKY, INC., AND)
KENTUCKY ALLTEL, INC.)

Case No. 2005-00534

DIRECT TESTIMONY

OF

MARK HAYES

On Behalf of

ALEC, INC.

April 21, 2006

1 **Q. Please state your name, business address, employer and position.**

2 A. My name is Mark I. Hayes. My business address is 250 W. Main Street, Suite
3 1920 Lexington, KY 40507. I have been associated with ALEC since 1999. Most
4 recently employed as the President of CLEC Services.

5 **Q. What is the purpose of your testimony?**

6 A. I would like to present testimony on behalf of ALEC Inc.'s current management.
7 My testimony will demonstrate that the proposed merger with Valor Communications
8 Group, Inc., will result in an extremely less competitive environment in which CLECs
9 will operate. ALLTEL has not operated in good faith regarding the interconnection
10 agreement between ALEC and GTE South, Inc., as promised to the Kentucky Public
11 Service Commission during its acquisition of the Verizon/GTE properties. ALLTEL has
12 refused to implement the FCC's ISP Remand Order for intercarrier compensation of ISP-
13 bound traffic. Additionally, ALLTEL's proposed transfer does not serve the best interest
14 of Kentucky's consumers.

15 **Q. Should the Commission approve ALLTEL's merger request in this case?**

16 A. No.

17 **Q. What testimony do you have for the Commission to consider in deciding
18 whether to approve ALLTEL's merger application?**

19 A. As of October 8, 2004, the effective date of the *Core Forbearance Order*, CLECs
20 are entitled to receive compensation for terminating all originated ISP-bound traffic in at
21 the current FCC mandated rate of \$0.0007 per minute of use. Pursuant to the ICA and
22 the TCA, ALLTEL is obliged to negotiate an amendment in good faith upon a Change of
23 Law. ALLTEL has refused to enter into an amendment that reflects only the terms of the

1 FCC's *Core Forbearance Order*, in which the FCC eliminated growth caps and new
2 market restrictions from its unified national compensation framework for ISP-bound
3 traffic.

4 As a result of ALLTEL's refusal to implement the FCC's Order, CLECs have not
5 been compensated for intercarrier compensation relating to ISP-bound traffic minutes of
6 use above the growth cap. ALLTEL has refused to true-up all billing for ISP-bound
7 traffic back to October 8, 2004, the effective date of the *Core Forbearance Order*,
8 resulting in unfair compensation to their interconnected carriers.

9 Prior to the *Core Forbearance Order*, ALLTEL failed and refused to fairly
10 compensate CLECs for ISP-bound traffic on the grounds that the in FCC's interim
11 compensation regime for ISP-bound traffic as set forth in the FCC's *ISP Remand Order*,
12 ¶ 77, is not "final, binding and nonappealable."

13 While it is true that the law allows for judicial review of FCC Orders, the fact is, our
14 Federal Courts have reviewed the ISP Order have not found reason to reject it.¹ The law
15 states that a ruling by the United States Court of Appeals for the District of Columbia is
16 final, unless appealed to the Supreme Court of the United States.²

17 ALLTEL's blatant defiance of the FCC's Orders and the law of the land has denied
18 fair compensation to CLECs and raises questions about ALLTEL's intentions and their

¹ WorldCom, Inc v. FCC, et al. 351 U.S. App D.C. 176; 288 F.3d 429 (2002); rehearing denied (Sept. 24, 2002); writ of certiorari denied 123 S. Ct. 1927 (May 5, 2003).

² Communications Act of 1934 as Amended by the Telecommunications Act of 1996, 47

1 ability to be a good corporate citizen. Approval of this merger request should not be
2 granted without a full investigation of ALLTEL's corporate behavior.

3 **Q. Does this conclude your testimony?**

4 A. Yes.