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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

APR 21 2006

PUBLIC SERVICE
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

RESPONSE TO EMERGENCY MOTIONS TO DISMISS

Kentucky Alltel, Inc., Alltel Kentucky, Inc., Alltel Communications, Inc., Alltel Holding Corp., Valor Communications Group, Inc. and Alltel Holding Corporate Services, Inc. ("Joint Applicants") state as follows in support of their Response to the emergency motions of Communications Workers of America ("CWA"), International Brotherhood of Electrical Workers ("IBEW"), the Lexington-Fayette Urban County Government ("LFUCG"), and the Attorney General to dismiss this proceeding:

1. By Order dated April 19, 2006, the Commission denied the Attorney General's prior Motion to Dismiss. The Attorney General's latest Emergency Motion to Dismiss as well as the motions by CWA, IBEW, and LFUCG are without merit and also should be denied. Essentially, the various motions to dismiss suggest that Joint Applicants' removal of the proposed Kentucky operating company liens and guarantees – which was intended to and does in fact simplify the requests remaining before the Commission – justify complete dismissal of this entire proceeding. Indeed, dismissal is wholly unwarranted. As discussed in greater detail below, the removal of the Kentucky operating company liens and guarantees results in no change in (a) the debt Facilities pricing originally set forth by Joint Applicants; (b) the financial ability of Joint Applicants to provide reasonable service. The parties in this proceeding,

including Joint Applicants, have expended considerable resources prosecuting the requested approvals, and the various emergency motions to dismiss set forth no legal basis to justify dismissal. Indeed, to dismiss the proceeding at this juncture unduly would result in extreme prejudice to Joint Applicants and negatively impact their ability to serve the ratepayers of Kentucky.

2. The chronology of events in this matter is helpful in understanding why the motions are unsubstantiated and why this proceeding should not be dismissed. On December 22, 2005, Joint Applicants filed their Application for Approval of Transfer (“Transfer of Control Application”) pursuant to KRS 278.020 and requested Commission approval of the transfer of control of Kentucky Alltel, Inc. and Alltel Kentucky, Inc. (“the Kentucky ILECs”) and the transfer of existing long-distance customers of Alltel Communications, Inc. The separation of Alltel Corporation’s wireline and wireless businesses and subsequent merger of the wireline business with Valor Communications Group, Inc. gave rise to the Transfer of Control Application. In approving the transfers, the Commission must consider whether the transfer of control of the Kentucky ILECs and transfer of long distance customers are (a) made in accordance with law, for a proper purpose and are consistent with the public interest; and (b) made to a transferee that has the financial, managerial, and technical abilities to provide reasonable service. As set forth in their Transfer of Control Application and as elaborated in their prefiled direct testimony filed herein on February 16, 2006, Joint Applicants have satisfied these criteria. The record with respect to this evidence has not changed.

3. Thereafter, on January 23, 2006, Joint Applicants supplemented their Transfer of Control Application and filed an Amended and Restated Application (“Financing

Application”) requesting additional approval for authorization to guarantee evidences of indebtedness pursuant to KRS 278.300. The Financing Application sought Commission approval of proposed guarantees and liens on the assets of the Kentucky ILECs with respect to the New Holding Company’s debt. As set forth in their Financing Application and as supported in their testimony, Joint Applicants satisfied the criteria under KRS 278.300 that the financing is (i) for a lawful object within the corporate purpose of the Kentucky ILECs; (ii) necessary or appropriate for or consistent with the proper performance by the Kentucky ILECs of their service to the public and will not impair their ability to perform those services; and (iii) reasonably necessary and appropriate for such purpose.

4. The Financing Application did not change the relief sought in the Transfer of Control Application, which the Commission determined to be non-deficient. Rather, in the Financing Application, Joint Applicants supplemented their request to include an additional approval. As discussed following, Joint Applicants have now eliminated the need for the Commission to approve the Financing Application, which is now no longer applicable to this case. However, this change in requested relief **does not change the evidence previously submitted** in this matter or the fact that the evidentiary record continues to support approval of the Transfer of Control Application.

5. In its Order on March 2, 2006, the Commission determined the Financing Application also to be non-deficient and established a procedural schedule. Thereafter, the parties, including the Attorney General, engaged in extensive discovery exchanges, all of which are on record in this matter, support Joint Applicants’ requests for approval, and **remain unchanged** by Joint Applicants’ removal of the request for approval set

forth in the Financing Application. In fact, various intervenors have served almost 500 data requests on Joint Applicants. Additionally, Joint Applicants have offered numerous times throughout the proceeding to answer parties' additional questions about the transactions, but no party accepted, and the Attorney General specifically declined the offers.

6. Through the course of the parties' discovery and other communications, Joint Applicants became aware of some parties' concern in Kentucky as well as other states (including the Kentucky Attorney General) with respect to the proposed liens and guarantees as requested in the Financing Application. The parties did not express concern with the approvals sought relative to the transfers of control of the Kentucky ILECs and long distance customers. Indeed, at the informal conference in January 2006, prior to the Financing Application, the Attorney General remarked that the transactions set forth in the Transfer of Control Application were relatively straightforward.

7. Joint Applicants have worked diligently throughout this proceeding to communicate with the various intervenors and timely answer voluminous data requests, and it is critical that the parties adhere to the current schedule in order for Joint Applicants to obtain the necessary remaining transfer of control approvals to complete the transactions and move forward with their wireline separation and merger to the benefit of Kentucky ratepayers. In an effort to simplify and expedite the approval process, on April 12, 2006, Joint Applicants decided to forgo the liens and guarantees in all states where financing or change of control approval was required – including Kentucky. The prospective debt will continue to be secured by liens and guarantees of

selected regulated and non-regulated entities in other states (approximately 26% of the New Holding Company's total access lines). Removal of the liens and guarantees in states requiring approval such as Kentucky was intended to alleviate concerns raised by various parties – including the Kentucky Attorney General - about the Financing Application and provide additional assurance that Joint Applicants could secure approvals and access the credit markets while conditions are favorable.

8. LFUCG is correct in suggesting in its motion that the scope of this proceeding has changed. Indeed, it has been simplified. While Joint Applicants originally had two requests pending before the Commission – the Transfer of Control Application and the Financing Application – the only remaining issue before the Commission now is approval of the transfer of control of the Kentucky ILECs and transfer of long distance customers as set forth in the Transfer of Control Application pursuant to KRS 278.020. Commission approval of the Financing Application pursuant to KRS 278.300 is no longer necessary or within the scope of this proceeding as Joint Applicants no longer are requesting approval to place liens and guarantees on the assets of the Kentucky operating companies. However, the evidentiary record in this case is extensive, remains unchanged, and fully supports that the Transfer of Control Application satisfies the applicable criteria under KRS 278.020.

9. At the time that Joint Applicants prepared their Financing Application, Joint Applicants could only predict the future condition of the financial markets at the time of the anticipated transaction closing in May or June 2006. The predictions of their financial advisors resulted in Joint Applicants' decision to pursue the operating company liens and guarantees in order to secure what they believed at that time would be the

lowest cost of financing. As noted in the Financing Application, Joint Applicants estimated that the average annual interest expense savings as a result of the guarantees and liens would be approximately \$37.5 million. However, as the transactions near resolution several months later, Joint Applicants are better able to assess the credit markets which are currently favorable. Therefore, it is in Joint Applicants' best interest and that of their customers to secure the remaining transfer of control approvals as currently scheduled. Because of the current favorable financial market conditions, Joint Applicants are able to accomplish the revised financing without all of the prior operating company liens and guarantees previously proposed while at the same time retaining without change the existing pricing of the Facilities as set forth in Annex I (Interest Rates and Fees) of the original Commitment Letter.

10. Despite Joint Applicants' best efforts to alleviate the parties' concerns with respect to the Financing Application and simplify the remaining approval requests, the Attorney General now contends that the removal of the liens and guarantees in Kentucky "raises more questions about what rights the company was forced to relinquish in exchange for the lenders' willingness to forego the requirement of guarantees and liens." (Attorney General Emergency Motion to Dismiss at page 2.) The assertions set forth by the Attorney General are unfounded, and Joint Applicants stand by the evidentiary record in this proceeding. Specifically, the Commitment Letter attached as Exhibit 7 to the Financing Application set forth pricing of the Facilities which will provide up to \$4.2 billion of financing. The removal of the liens and guarantees in Kentucky and certain other states does not change the Facilities' pricing as confirmed in writing by the Lenders in the Revised Commitment Letter. Although the Attorney

General questions the authenticity of the Revised Commitment Letter (Attorney General Emergency Motion to Dismiss at page 2), it was in fact signed in counterparts by all authorized and appropriate parties. Joint Applicants inadvertently provided incomplete signature pages when they previously distributed the letter and would have provided complete copies to any party had it requested them. Joint Applicants have attached the complete Revised Commitment Letter as Exhibit A to this Response.

11. With respect to the remaining Notes (up to \$1.54 billion), Joint Applicants originally proposed to secure same by guarantees of all operating companies. The Notes remain secured but by fewer guarantees. Although Joint Applicants cannot know the final pricing of such Notes until such time as Joint Applicants receive all remaining transfer approvals and are able to access the credit markets, removal of some of the guarantees, does not result in additional obligations as suggested by the Attorney General. (Attorney General Emergency Motion to Dismiss at page 2.) Unlike their situation back in December when they were attempting to forecast the markets almost half a year in advance, Joint Applicants are better able to assess the credit markets at this time given that the transactions are scheduled to close in the next two months. For instance, Joint Applicants could not have known at the time that they filed their Financing Application that market conditions would be favorable and that Valor's stock would rise in response to the disclosure of the details of the transaction.

12. Accordingly, the Attorney General's contention that removal of the Kentucky operating company liens and guarantees "is clearly substantial and material in nature, and goes to the very heart of the contemplated transaction" is false. (Attorney General Emergency Motion to Dismiss at page 3.) The alleviation of the need for Commission

approval set forth in the Financing Application has no impact on the transfer of control of the Kentucky ILECs, transfer of long distance customers, or the financial ability of the entities to provide reasonable service to Kentucky customers. As confirmed by both Lenders in the Revised Commitment Letter, the removal of certain operating company liens and guarantees does not change the Facilities Pricing and results in no additional obligations to Joint Applicants. Contrary to the assertions advanced by the Attorney General that the “new finance package” impacts Joint Applicants’ previous financial projections and creates the need for a revised solvency analysis, Joint Applicants’ previous projections and the solvency analysis already on record herein remain unchanged.

13. The illogical conclusion to be drawn from the Attorney General’s assertions (and the concurrences by CWA and IBEW) is that Joint Applicants should be made to reinstate the Kentucky operating company liens and guarantees requested in their Financing Application or risk dismissal of this entire proceeding. Such a result is clearly unreasonable, without merit, and would result in undue prejudice to Joint Applicants and their stakeholders – particularly Kentucky ratepayers. Removal of the operating company liens and guarantees in Kentucky merely simplifies the transfer of control transactions remaining before the Commission and does not impact the evidence previously set forth in support of Joint Applicants’ requisite financial ability. Nevertheless, should the Commission determine to proceed with dismissal and risk extreme prejudice to Joint Applicants and their stakeholders, Joint Applicants would agree to restore the requirement that each of the Kentucky ILECs enter into a guarantee

and lien of the Facilities and a guarantee of the Notes in order to retain the existing procedural schedule.

14. As an additional matter, the Attorney General presumes incorrectly that removal of certain of the liens and guarantees required Alltel Board approval. (Attorney General Emergency Motion to Dismiss at page 4.) The removal of certain of the liens and guarantees is within the existing authority previously granted by the Alltel Board to its officers. The Revised Commitment Letter was an accommodation to Alltel and reduced the scope of the financing requirements without a change in existing Facilities pricing. Therefore, the Attorney General's suggestion that "revised [Board] financial projections and presentations were prepared" is false. Joint Applicants already have provided to requesting parties the applicable Alltel Board presentations, and those remain unchanged as a result of the removal of certain operating company liens and guarantees.

15. The Attorney General implies that there may be a negative impact to the public as a result of the elimination of the relief sought in the Financing Application. This contention could not be farther from the truth. Nothing about the removal of the Kentucky operating company liens and guarantees changes in any way the prior evidence submitted by Joint Applicants with respect to the transactions being virtually transparent to end users. As the record in this matter demonstrates, the transfers of control will appear to customers merely as a name change and will not result in any change in local operations or rates or service terms and conditions.

16. Indeed, harm to the public would result if the motions to dismiss were granted. Such dismissal would serve only to prejudice unduly Joint Applicants and delay their

ability to close the instant transactions. Additionally, such dismissal would impede Joint Applicants' ability to access the currently favorable credit markets, heighten their associated transaction risks, and delay implementation of the New Holding Company's wireline-focused centralized management and corporate support teams, thereby bringing harm to their Kentucky customers. Joint Applicants already have secured all necessary federal approvals and expect to obtain all remaining state commission approvals by June 2006. Dismissal of the Kentucky proceeding, therefore, would jeopardize the entire wireline separation/merger transaction and create extreme prejudice to Joint Applicants and Kentucky ratepayers.

17. The Attorney General suggests that the only way to address its purported factual disputes is to "dismiss the instant action without prejudice, and require Joint Applicants to submit an application that explains the details of the most recent version of their finance package." (Attorney General's Emergency Motion to Dismiss at page 4.) Such a result is without merit and results in extreme prejudice to Joint Applicants and all of their stakeholders. The evidentiary record in this proceeding is extensive, has not changed as a result of the removal of the Kentucky operating company liens and guarantees, and is sufficient basis from which the Commission may find satisfaction of the criteria under KRS 278.020. Further, in the instant case where Joint Applicants have eliminated a pending request and have not added an additional request for the Commission or other parties to consider, it is unnecessary for them to refile an entirely new application. Removal of the Kentucky operating company liens and guarantees merely simplifies the scope of the request for approval remaining before the Commission and was intended

by Joint Applicants to alleviate concerns expressed by certain parties, namely the Attorney General, about the Financing Application.

18. Joint Applicants should not be forced to endure delay in these transactions and the extreme prejudice that would result from dismissal thereof. All pending motions to dismiss should be denied in their entirety.

19. Joint Applicants deny all allegations in the emergency motions to dismiss by the Attorney General, CWA/IBEW, and LFUCG unless specifically admitted herein.

20. Joint Applicants reserve the right to plead further in this matter as they deem necessary.

Dated: April 21, 2006.

Respectfully submitted,

STITES & HARBISON



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(502) 223-3477
moverstreet@stites.com

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served first class mail, postage prepaid and by electronic transmission except as otherwise noted upon the following:

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on this the 21st day of April, 2006.



Mark R. Overstreet

Exhibit A

J.P. Morgan Securities Inc.

**Merrill Lynch, Pierce, Fenner & Smith
Incorporated**

JPMorgan Chase Bank, N.A.

Merrill Lynch Capital Corporation

April 12, 2006

Private and Confidential

ALLTEL Corporation
One Allied Drive
Little Rock, AR 72202
Attention: Jeffrey R. Gardner
Chief Financial Officer

ALLTEL Corporation
Senior Secured Credit Facilities
Amendment to Commitment Letter

Ladies and Gentlemen:

We refer to the Commitment Letter dated December 8, 2005 among us (together with the schedules and exhibits thereto, the "**Commitment Letter**"). Terms used but not defined in this Amendment (this "**Amendment**") have the meanings assigned thereto in the Commitment Letter.

We hereby agree that the description of the "Guarantors" contained in the Summary of Terms and Conditions attached to the Commitment Letter as Exhibit A is hereby amended by adding the following proviso at the end thereof: "*provided* that Guarantees will not be required from any subsidiary to the extent that the Transaction requires, or the granting of such Guarantee would require, the approval of any state regulatory agency".

Neither the Commitment Letter nor this Amendment may be amended or any provision hereof waived or modified except by an instrument in writing signed by each of the parties hereto. This Amendment shall be governed by, and construed in accordance with, the laws of the State of New York. This Amendment may be executed in any number of counterparts, each of which when executed shall be an original and all of which, when taken together, shall constitute one agreement. Delivery of an executed counterpart of a signature page of this Amendment by facsimile transmission shall be effective as delivery of a manually executed counterpart hereof.

Very truly yours,

J.P. MORGAN SECURITIES INC.

By: _____
Name:
Title:

MERRILL LYNCH, PIERCE, FENNER &
SMITH INCORPORATED

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A.


By: _____
Name:
Title:

MERRILL LYNCH CAPITAL
CORPORATION

By: _____
Name:
Title:

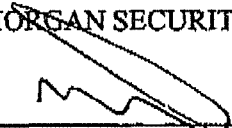
Accepted and agreed to as of
the date first written above:

ALLTEL CORPORATION

By: 
Name: Richard N. Massey
Title: Executive Vice President

Very truly yours,

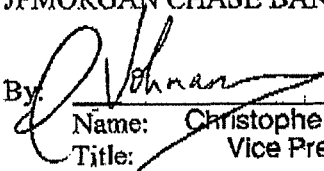
J.P. MORGAN SECURITIES INC.

By: 
Name: Robert Dorc
Title: VP

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

By: _____
Name:
Title:

JPMORGAN CHASE BANK, N.A.

By: 
Name: Christophe Vohmann
Title: Vice President

MERRILL LYNCH CAPITAL CORPORATION

By: _____
Name:
Title:

Accepted and agreed to as of the date first written above:

ALLTEL CORPORATION

By: _____
Name:
Title:

Very truly yours,

J.P. MORGAN SECURITIES INC.

By: _____
Name:
Title:

MERRILL LYNCH, PIERCE, FENNER &
SMITH INCORPORATED

By: Chantal Simon
Name: Chantal Simon
Title: Authorized Signatory

JPMORGAN CHASE BANK, N.A.

By: _____
Name:
Title:

MERRILL LYNCH CAPITAL
CORPORATION

By: Chantal Simon
Name: Chantal Simon
Title: Authorized Signatory

Accepted and agreed to as of
the date first written above:

ALLTEL CORPORATION

By: _____
Name:
Title: