

# AUSLEY & McMULLEN

ATTORNEYS AND COUNSELORS AT LAW

227 SOUTH CALHOUN STREET  
P.O. BOX 391 (ZIP 32302)  
TALLAHASSEE, FLORIDA 32301  
(850) 224-9115 FAX (850) 222-7560

June 30, 2004

## VIA HAND DELIVERY

Ms. Blanca S. Bayo, Director  
Division of the Commission Clerk  
and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, Florida 32399-0870

Re: Docket No. 040343-TP

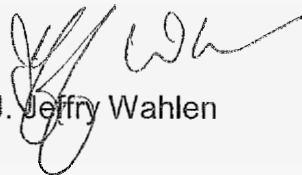
Dear Ms. Bayo:

Enclosed for filing in the above dockets are the original and fifteen (15) copies of ALLTEL Florida, Inc.'s Notice of Supplemental Authority.

Please acknowledge receipt and filing of the above by stamping the duplicate copy of this letter and returning the same to this writer.

Thank you for your assistance in this matter.

Sincerely,



J. Jeffrey Wahlen

JJW/jh  
Enclosure  
cc: All Parties of Record (w/encls.)

DOCUMENT NUMBER-DATE

07149 JUN 30 8

FPSC-COMMISSION CLERK

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Petition to Adopt the ALLTEL  
Interconnection Agreement Pursuant  
to Section 252(j) of the Telecommuni-  
cations Act of 1996

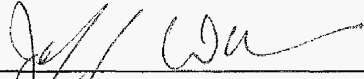
DOCKET NO. 040343-TP  
FILED: June 30, 2004

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**ALLTEL FLORIDA, INC.'S  
NOTICE OF SUPPLEMENTAL AUTHORITY**

ALLTEL Florida, Inc. by and through its undersigned counsel, files the attached Order Denying Petition issued by the Georgia Public service Commission on May 25, 2004, as supplemental authority for its Motion to Dismiss. The attached order was not issued as of the filing of ALLTEL's Motion to Dismiss or VOLO's response thereto.

DATED this 30<sup>th</sup> day of June, 2004.



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J. JEFFREY WAHLEN  
Ausley & McMullen  
Post Office Box 391  
Tallahassee, Florida 32302  
850/425-5471

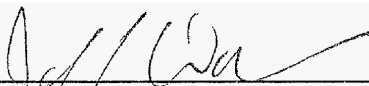
ATTORNEYS FOR ALLTEL FLORIDA, INC.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail or hand delivery (\*) this 30<sup>th</sup> day of June, 2004, to the following:


Victor McKay \*  
Kira Scott \*  
Division of Legal Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Floyd Self \*  
Messer Caparello & Self P.A.  
215 South Monroe street  
Tallahassee, FL 32301



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Attorney





RECEIVED

MAY 25 2004

DEBORAH K. FLANNAGAN  
EXECUTIVE DIRECTOR

COMMISSIONERS:  
DOUG EVERETT, CHAIRMAN  
ROBERT B. BAKER, JR.  
AVID L. BURGESS  
ANGELA ELIZABETH SPEIR  
TAN WISE

Georgia Public Service Commission  
EXECUTIVE SECRETARY

REECE McALISTER  
EXECUTIVE SECRETARY

244 WASHINGTON STREET  
ATLANTA, GEORGIA 30334-6701

DOCKET # 18808

FAX: (404) 556-234  
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DOCUMENT # 73004

Docket No. 18808

(404) 656-4501  
(800) 282-5813

In Re: Petition by Volo Communications of Florida to Adopt the ALLTEL and Level 3 Interconnection Agreement Pursuant to Section 252(i) of the Telecommunications Act of 1996

ORDER DENYING PETITION

BY THE COMMISSION:

On April 21, 2004, Volo Communications of Florida d/b/a Volo Communications Group of Florida, Inc. ("Volo") filed its Petition to Adopt ("Petition") the interconnection agreement ("Agreement") between ALLTEL Georgia Communications Corporation, ALLTEL Georgia, Inc., ALLTEL Georgia Telephone Corporation, Georgia ALLTEL Telecom, Inc., Standard Telephone Company (collectively "ALLTEL") and Level 3 Communications, LLC.

The Agreement was filed June 5, 2002 and was approved by the Georgia Public Service Commission ("Commission") on July 16, 2002. An amendment to the Agreement was filed on June 12, 2003. Volo submitted a copy of the Agreement and the amendment together with its petition. Volo requests that the Commission "immediately accept, approve, or acknowledge this adoption." (Petition, p. 2). The Agreement is set to terminate on June 30, 2004; however, subject to certain exceptions, the Agreement will remain in effect during the time that ALLTEL and Level 3 are negotiating a successor interconnection agreement. (Agreement, Sections 4.1 and 4.2). Thus, it is possible for the provisions of the Agreement to remain in effect beyond June 30, 2004, and therefore, for Volo's adoption to remain in effect beyond that date.

ALLTEL did not formally respond to Volo's Petition. However, because of the short amount of time remaining in the term of the Agreement, the Commission addressed the issue on an expedited basis. In its recommendation, the Staff informed the Commission that it had been made aware that ALLTEL objected to Volo's request to adopt the Agreement because Volo made the request less than six months from the termination of the Agreement.

The Federal Telecommunications Act of 1996 obligates local exchange carriers to make available to a requesting carrier any interconnection, service or network element that is provided under an existing agreement. 47 U.S.C. § 251(i). The rules of the Federal Communications Commission provide that "[i]ndividual interconnection, service, or network element arrangements shall remain available for use by telecommunications carriers pursuant to this section for a reasonable period of time after the approved agreement is available for public inspection under section 252(f) of the Act." 47 CFR 51.809(c) (emphasis added).

Commission Order  
Docket No. 18808-U  
Page 1 of 2

The Staff recommended that the Commission find that Volo's Petition, which involved a request for adoption of an agreement within a few months of the agreement's termination date, does not fall within the reasonable time standard articulated in the FCC rule. Accordingly, Staff recommended that the Commission deny Volo's Petition. The Staff recommended further that it would serve the administrative efficiency of the Commission to order that a request to adopt an interconnection agreement with six months or more remaining in the term of the agreement constitutes a reasonable period of time under 47 C.F.R. 51.809(c).

The Commission adopted Staff's recommendation. This resolution of the issue is consistent with the Federal Act and FCC rules. Moreover, it strikes an appropriate balance between a requesting carrier's desire to interconnect in a timely manner and the practical considerations of implementing the terms of an interconnection agreement. Finally, the establishment of a six month standard furthers the Federal Act's goals of preventing discrimination between carriers.

**WHEREFORE IT IS ORDERED**, that Volo's Petition is hereby denied.

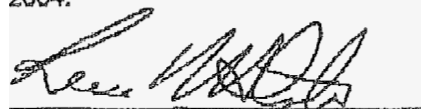
**ORDERED FURTHER**, that a request to adopt an interconnection agreement with six months or more remaining in the term of the agreement constitutes a reasonable period of time under 47 C.F.R. 51.809(c).

**ORDERED FURTHER**, that all findings, conclusions and decisions contained within the preceding sections of this Order are adopted as findings of fact, conclusions of law, and decisions of regulatory policy of this Commission.

**ORDERED FURTHER**, that a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

**ORDERED FURTHER**, that jurisdiction over these matters is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 18<sup>th</sup> day of May 2004.



Reece McAlister  
Executive Secretary



H. Doug Everett  
Chairman

5-25-04  
Date

5-25-04  
Date