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December 12, 2003

**HAND-DELIVERED**

Mr. Dale Hardy Roberts  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
200 Madison Street, Suite 100  
P.O. Box 360  
Jefferson City, Missouri 65102

**FILED**  
**DEC 12 2003**  
Missouri Public  
Service Commission

**RE: Case No. LA-2004-0133**

Dear Mr. Roberts:

Please find enclosed for filing with the Commission the original and eight (8) copies of ALLTEL Missouri, Inc.'s Response To Order Directing Filing

Copies of the foregoing Response have been hand-delivered, emailed or mailed this date to counsel of record. Thank you for your attention to this matter.

Sincerely,

*Larry W. Dority*  
Larry W. Dority *by Jm*

Enclosures

cc: Counsel of Record

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED

DEC 12 2003

Missouri Public  
Service Commission

In the Matter of the Application of )  
Time Warner Cable Information Services )  
(Missouri), LLC for a Certificate )  
of Service Authority to Provide Local )  
and Interexchange Voice Service )  
in Portions of the State of Missouri )  
And to Classify said Services and )  
the Company as Competitive. )

Case No. LA-2004-0133

**ALLTEL MISSOURI, INC.'S RESPONSE  
TO ORDER DIRECTING FILING**

COMES NOW ALLTEL Missouri, Inc. ("ALLTEL"), pursuant to the Commission's Order Directing Filing entered in this matter on November 26, 2003, and for its Response to the Staff of the Commission's Memorandum respectfully states as follows:

1. In Case No. TO-2004-0172, *In the Matter of an Investigation of Voice Over Internet Protocol and Virtual NXX Telephony in the State of Missouri*, the Staff of the Commission filed a motion to open a "generic" case that would have addressed many of the technological and regulatory issues concerning VoIP that have been raised in this proceeding. However, on November 4, 2003, the Commission issued its Order Denying Motion to Open Case finding, *inter alia*: "The Commission is currently considering some of the issues raised in Staff's motion in a contested case (Case Number LA-2004-0133). It would be inefficient to examine the same issues in a 'generic' case that the Commission is considering in a specific case, and so the Commission will deny Staff's motion." During previous discussions regarding Case No. TO-2004-0172 held during the Commission's Open Agenda Meeting of October 28, 2003, concerns

were expressed by some Commissioners that, should the focus of inquiry regarding VoIP issues be placed in the instant proceeding, interested parties would have the opportunity to participate in such an inquiry.

2. Concurrent with the issuance of its Order in the TO-2004-0172 case, the Commission issued its Order Granting Applications To Intervene And Setting Prehearing Conference in this proceeding, noting that "The primary interest among the proposed intervenors concerns regulatory treatment of Voice over Internet Protocol telecommunications services." (Order at 1). As a result, the Commission determined that this proceeding would be the forum to address important public policy issues related to the classification and regulatory treatment of VoIP services, which are of significant concern to ALLTEL. As stated in the Commission's Order entered in this matter on November 4, "Inclusion of the proposed intervenors in an examination of VoIP can only serve to address more fully issues surrounding VoIP. Consequently, the public interest would be better served by a full examination of this service. The Commission will therefore grant intervention to the proposed intervenors." (Order at 4-5).

3. Accordingly, ALLTEL filed its Application to Intervene Out of Time, which was granted by this Commission's Order Granting Applications to Intervene entered on November 13, 2003. Once again, referencing the Commission's intent to address more fully the issues surrounding VoIP, the Commission's November 13 Order granted the additional requests to intervene filed by various parties interested in VoIP issues:

The parties proposing to intervene out of time make reference to Case No. TO-2004-0172. In that matter, the Commission entertained a motion filed by the Staff of the Commission. In its motion, Staff proposed that the Commission open a generic case to examine issues regarding Voice over Internet Protocol. On November 4, 2003, the Commission denied the motion, preferring to examine issues surrounding VoIP in the above styled case. Because the proposed

intervenor were interested in Case No. TO-2004-0172, they now seek intervention in this matter. . . .

For the same reasons stated in the Commission's Order Granting Applications to Intervene and Setting Prehearing Conference issued on November 4, 2003, and because the Commission declined to examine VoIP in the generic case, the Commission will grant intervention to those parties presently seeking intervention. (Order at 2).

4. In conjunction with the granting of intervenor status, ALLTEL and other parties were directed to comply with the Commission's earlier Order of November 10, 2003, requiring that parties to this matter file briefs, setting forth their positions with respect to the Commission's jurisdiction over VoIP. On November 21, 2003, ALLTEL filed its Brief supporting the Commission's jurisdictional authority with regard to VoIP.

5. The Staff Memorandum, in response to "Prehearing Discussion Items," notes that "The Type of service Time Warner proposes to offer has not been addressed by the Federal Communications Commission," and references its review of all Briefs submitted by the parties regarding regulatory jurisdiction of VoIP. "In reviewing the briefs, Staff has not found any reason to suggest a lack of Commission jurisdiction over real-time, dial tone telephone service. . . . Again, it is the Staff's opinion that such services have not been preempted by the FCC." (§ 5, pp. 9-10). At Paragraph 6 of its Memorandum, Staff references the Commission's denial of its motion to open a generic proceeding, and the Commission's stated intent to address those issues in this proceeding. However, Staff "notes that numerous questions and issues pertaining to VoIP technology are not being raised in the instant Time Warner case. For example, Virtual NXX code assignments, access charges, certification requirements, E-9-1-1 service requirements, and universal service obligations are issues raised by the Staff that are not being addressed in Time Warner's application." (§6, p. 10).

6. ALLTEL respectfully states that such issues, and others previously identified in the Staff's Motion to Open Case in Case No. TO-2004-0172, should be examined by this Commission as soon as possible. Should the Commission make the decision not to address these important issues in the context of this proceeding, the Commission, in fairness to all parties who have intervened, should open the generic docket sought by Staff in the TO-2004-0172 case, prior to taking any other action herein.

**WHEREFORE**, ALLTEL Missouri, Inc. respectfully files its Response to the Staff Memorandum.

Respectfully submitted,

  
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Attorney for ALLTEL Missouri, Inc.

## CERTIFICATE OF SERVICE

I do hereby certify that a true and correct copy of the foregoing document has been hand-delivered, transmitted by e-mail or mailed, First Class, postage prepaid, this 12th day of December, 2003, to:

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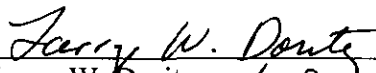
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