

**Presented by:** Tony Clark  
Commissioner  
Public Service Commission

**Before:** Industry, Business and Labor  
Honorable Rick Berg, Chairman

**Date:** July 9, 2008

### TESTIMONY

Mr. Chairman and members of the Committee. Thank you for your invitation to discuss the Alltel-Verizon merger with the Committee. I am Commissioner Tony Clark. I am testifying on behalf of the Public Service Commission.

The Verizon acquisition of Alltel is of keen interest to North Dakota. The two companies handle the bulk of wireless communications in North Dakota.

At the outset, I would note that this is, from a jurisdictional standpoint, a federal issue. The review of the proposed merger rests with two federal agencies—the Department of Justice and the Federal Communications Commission.

The Department of Justice reviews the transaction from an anti-trust standpoint. The FCC review is broader to include the “public interest.” The role of the Public Service Commission and the State generally will be to either formally or informally utilize these federal review processes to advocate for North Dakota’s best interests.

It is widely speculated that in North Dakota and a handful of other markets, a divestiture of some kind is likely. This is for two reasons. First, from an anti-trust

standpoint, it is quite likely that a high-degree of market concentration will result in the North Dakota marketplace. Second, Verizon and Alltel operate the “A” and “B” sides of the same spectrum here, and past federal precedent has been to disallow one firm from holding both sides of the spectrum.

The PSC believes that an acceptable outcome for North Dakota would include:

1. A continuation of at least two viable carriers. For North Dakota, it is critical that we continue to have carriers interested in vigorously competing and investing in North Dakota. The next generation of wireless investments will be tremendously expensive. If there is a divestiture, we need assurance that the two carriers are at least as fully committed as Verizon and Alltel have been. We have been fortunate in North Dakota the last few years to have two such carriers. Both have built dozens of new towers each year. Both have been utilizing federal support money to expand services in rural areas. And while there are still “drop” spots, service has improved dramatically. North Dakotans want and need this continued investment and competition.

2. Customers are treated fairly in any divestiture. Of special concern are customers who have entered long-term contracts. We believe federal regulators should be mindful of this and require proper accommodations, whether it be flexibility with existing contracts or a requirement that all contract terms be honored through the length of the contract.

To these ends, the PSC has directed its staff to explore the best mechanisms for furthering our participation, whether it be a formal action, such as filing comments with federal regulators, or informal actions, such as utilizing our

contacts within industry and government to advocate for the best possible outcome for North Dakota.

We will be happy to keep you informed as these events move forward.

That concludes my testimony Mr. Chairman. I would be happy to answer any questions you may have.