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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

MARC SPITZER, CHAIRMAN 7099 FEB -9 P 4: 50
WILLIAM A. MUNDELL
JEFF HATCH-MILLER AZ CORP COMMISSION
MIKE GLEASON DOCUMENT CONTROL
KRISTIN K. MAYES

IN THE MATTER OF THE APPLICATION OF
ALLTEL COMMUNICATIONS, INC. FOR
DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER
PURSUANT TO SECTION 214(e)(2) OF THE
COMMUNICATIONS ACT OF 1934

Docket No. T-03887A-03-0316
Arizona Corporation Commission
DOCKETED

FEB 09 2004

DOCKETED BY	<i>CR</i>
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**ALLTEL'S BRIEF REGARDING CONFIDENTIALITY OF
EXHIBIT ALECA-8**

Alltel Communications, Inc. submits this brief in support of maintaining the confidential status of Exhibit ALECA-8 in this docket. Although Alltel is unaware of any party to this docket asserting that ALECA-8, which was disclosed pursuant to protective agreement, should not be confidential, the Administrative Law Judge raised the issue of whether that exhibit should continue to be treated confidentially. Alltel submits that ALECA-8 contains proprietary and competitively sensitive information and should remain confidential.

ALECA-8 is a map that shows the radio frequency (RF) coverage of Alltel's existing wireless network throughout Alltel's licensed service area in Arizona. The map delineates that coverage into digital and analog coverage. This map contains information presently known only to Alltel and was prepared at Alltel's expense. The proprietary information set forth in the map includes the coverage information, including the areas where Alltel presently has limited coverage and where it needs to expand its network. The information contained in the map is competitively sensitive because it allows Alltel's competitors to see the current extent of Alltel's coverage. That knowledge can help shape a competitor's marketing strategy – for example, focusing on where

1 Alltel only has analog coverage, peripheral coverage or no coverage.

2 Alltel is readily willing to continue to provide Staff updated coverage information pursuant
3 to the protective agreement. However, Alltel submits that continuing confidential treatment of
4 proprietary, competitively sensitive information is appropriate. First, the Commission has
5 recognized the need for confidentiality for information submitted to the Commission by
6 competitors in a competitive industry. For example, the annual reports submitted to the
7 Commission by competitive local exchange carriers (CLECs) are submitted confidentially. A.A.C.
8 R14-2-1115.F.2. The Commission also provides that CLEC customer contracts are to be submitted
9 to the Commission confidentially. A.A.C. R14-2-1115.C.4. As with the coverage map at issue,
10 both types of documents contain competitively sensitive information that, if made public, could be
11 used by a competitor to its advantage.

12 Second, the information contained by the map also is not readily available to Alltel's
13 competitors. Obviously, Alltel incurred some expense in creating the map. Without immediate
14 access to the map, it would be enormously expensive for Alltel's competitors to duplicate the map
15 and even then the map probably would not be as accurate as the Alltel map. The competitors
16 would need to carefully survey the entire Alltel service area (roughly one-third of Arizona's
17 113,000 square miles) to determine Alltel's coverage, including the difficult task of delineating the
18 edges of that coverage, and the nature of the coverage (digital vs. analog). All of that would take
19 an inordinate amount to time and effort. Plus, given that Alltel is continually upgrading and
20 expanding its network, by the time a competitor actually finishes its survey, parts of it may no
21 longer be accurate. Yet, by making the map public, the Commission basically will hand Alltel's
22 competitors the information for free.

23 Third, the maps also do not provide any substantial benefits for individual consumers that
24 would justify disclosure. An Alltel customer wants to know if it can get adequate coverage in very
25 specific areas – basically, a very granular concern. The maps do not meet that level of concern.
26 Moreover, it is Alltel's practice to allow customers a "test period" to see if Alltel service coverage
27 is sufficient for that customer's particular needs. If it is not acceptable (for example, the customer's

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1 residence is in an RF shadow caused by a butte), then the customer can cancel service. Again, the
2 map at issue cannot provide that information to individual consumers, even though the map would
3 have substantial value to Alltel competitors looking at larger market areas.

4 Finally, the federal government has recognized that telecommunications infrastructure is
5 critically valuable to national interests and security. Public Law 107-56, Section 1016 (the
6 "Critical Infrastructures Protection Act of 2001", excerpts attached) provides in subsection (b)(2)
7 that "[p]rivate business, government, and the national security apparatus increasingly depend on an
8 interdependent network of critical physical and information infrastructures, including
9 telecommunications," It further provides that "[i]t is the policy of the United States (1) that
10 any physical or virtual disruption of the critical infrastructures . . . be rare, brief, geographically
11 limited in effect, manageable and minimally detrimental . . . [and] (2) that actions necessary to
12 achieve the policy . . . be carried out in a public-private partnership." *Id.*, Section 1016(c).
13 Submitting the coverage maps to the Commission confidentially to avoid wholesale public access
14 to that information balances the need of the Commission to carry out its duties with the federal
15 policies regarding national security.

16 Relief Requested

17 Alltel requests that Exhibit ALECA-8 remain confidential and that any updates of the
18 coverage map required by the Commission be submitted confidentially pursuant to the existing
19 protective agreement with Commission Staff.

20 RESPECTFULLY SUBMITTED February 9, 2004.

21 ALLTEL COMMUNICATIONS, INC.

22
23 By 

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ORIGINAL + 13 COPIES of the foregoing
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ATTACHMENT

PUBLIC LAW 107-56—OCT. 26, 2001

**UNITING AND STRENGTHENING AMERICA BY
PROVIDING APPROPRIATE TOOLS REQUIRED
TO INTERCEPT AND OBSTRUCT TERRORISM
(USA PATRIOT ACT) ACT OF 2001**

Public Law 107-56
107th Congress

An Act

Oct. 26, 2001
[H.R. 3162]

To deter and punish terrorist acts in the United States and around the world,
to enhance law enforcement investigatory tools, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Construction; severability.

TITLE I—ENHANCING DOMESTIC SECURITY AGAINST TERRORISM

- Sec. 101. Counterterrorism fund.
- Sec. 102. Sense of Congress condemning discrimination against Arab and Muslim Americans.
- Sec. 103. Increased funding for the technical support center at the Federal Bureau of Investigation.
- Sec. 104. Requests for military assistance to enforce prohibition in certain emergencies.
- Sec. 105. Expansion of National Electronic Crime Task Force Initiative.
- Sec. 106. Presidential authority.

TITLE II—ENHANCED SURVEILLANCE PROCEDURES

- Sec. 201. Authority to intercept wire, oral, and electronic communications relating to terrorism.
- Sec. 202. Authority to intercept wire, oral, and electronic communications relating to computer fraud and abuse offenses.
- Sec. 203. Authority to share criminal investigative information.
- Sec. 204. Clarification of intelligence exceptions from limitations on interception and disclosure of wire, oral, and electronic communications.
- Sec. 205. Employment of translators by the Federal Bureau of Investigation.
- Sec. 206. Roving surveillance authority under the Foreign Intelligence Surveillance Act of 1978.
- Sec. 207. Duration of FISA surveillance of non-United States persons who are agents of a foreign power.
- Sec. 208. Designation of judges.
- Sec. 209. Seizure of voice-mail messages pursuant to warrants.
- Sec. 210. Scope of subpoenas for records of electronic communications.
- Sec. 211. Clarification of scope.
- Sec. 212. Emergency disclosure of electronic communications to protect life and limb.
- Sec. 213. Authority for delaying notice of the execution of a warrant.
- Sec. 214. Pen register and trap and trace authority under FISA.
- Sec. 215. Access to records and other items under the Foreign Intelligence Surveillance Act.
- Sec. 216. Modification of authorities relating to use of pen registers and trap and trace devices.

Uniting and
Strengthening
America by
Providing
Appropriate
Tools Required to
Interrupt and
Obstruct
Terrorism (USA
PATRIOT ACT)
Act of 2001.
18 USC 1 note.

- Sec. 217. Interception of computer trespasser communications.
- Sec. 218. Foreign intelligence information.
- Sec. 219. Single-jurisdiction search warrants for terrorism.
- Sec. 220. Nationwide service of search warrants for electronic evidence.
- Sec. 221. Trade sanctions.
- Sec. 222. Assistance to law enforcement agencies.
- Sec. 223. Civil liability for certain unauthorized disclosures.
- Sec. 224. Sunset.
- Sec. 225. Immunity for compliance with FISA wiretap.

TITLE III—INTERNATIONAL MONEY LAUNDERING ABATEMENT AND ANTI-TERRORIST FINANCING ACT OF 2001

- Sec. 301. Short title.
- Sec. 302. Findings and purposes.
- Sec. 303. 4-year congressional review; expedited consideration.

Subtitle A—International Counter Money Laundering and Related Measures

- Sec. 311. Special measures for jurisdictions, financial institutions, or international transactions of primary money laundering concern.
- Sec. 312. Special due diligence for correspondent accounts and private banking accounts.
- Sec. 313. Prohibition on United States correspondent accounts with foreign shell banks.
- Sec. 314. Cooperative efforts to deter money laundering.
- Sec. 315. Inclusion of foreign corruption offenses as money laundering crimes.
- Sec. 316. Anti-terrorist forfeiture protection.
- Sec. 317. Long-arm jurisdiction over foreign money launderers.
- Sec. 318. Laundering money through a foreign bank.
- Sec. 319. Forfeiture of funds in United States interbank accounts.
- Sec. 320. Proceeds of foreign crimes.
- Sec. 321. Financial institutions specified in subchapter II of chapter 53 of title 31, United States code.
- Sec. 322. Corporation represented by a fugitive.
- Sec. 323. Enforcement of foreign judgments.
- Sec. 324. Report and recommendation.
- Sec. 325. Concentration accounts at financial institutions.
- Sec. 326. Verification of identification.
- Sec. 327. Consideration of anti-money laundering record.
- Sec. 328. International cooperation on identification of originators of wire transfers.
- Sec. 329. Criminal penalties.
- Sec. 330. International cooperation in investigations of money laundering, financial crimes, and the finances of terrorist groups.

Subtitle B—Bank Secrecy Act Amendments and Related Improvements

- Sec. 351. Amendments relating to reporting of suspicious activities.
- Sec. 352. Anti-money laundering programs.
- Sec. 353. Penalties for violations of geographic targeting orders and certain record-keeping requirements, and lengthening effective period of geographic targeting orders.
- Sec. 354. Anti-money laundering strategy.
- Sec. 355. Authorization to include suspicions of illegal activity in written employment references.
- Sec. 356. Reporting of suspicious activities by securities brokers and dealers; investment company study.
- Sec. 357. Special report on administration of bank secrecy provisions.
- Sec. 358. Bank secrecy provisions and activities of United States intelligence agencies to fight international terrorism.
- Sec. 359. Reporting of suspicious activities by underground banking systems.
- Sec. 360. Use of authority of United States Executive Directors.
- Sec. 361. Financial crimes enforcement network.
- Sec. 362. Establishment of highly secure network.
- Sec. 363. Increase in civil and criminal penalties for money laundering.
- Sec. 364. Uniform protection authority for Federal Reserve facilities.
- Sec. 365. Reports relating to coins and currency received in nonfinancial trade or business.
- Sec. 366. Efficient use of currency transaction report system.

Subtitle C—Currency Crimes and Protection

- Sec. 371. Bulk cash smuggling into or out of the United States.
- Sec. 372. Forfeiture in currency reporting cases.

- Sec. 373. Illegal money transmitting businesses.
- Sec. 374. Counterfeiting domestic currency and obligations.
- Sec. 375. Counterfeiting foreign currency and obligations.
- Sec. 376. Laundering the proceeds of terrorism.
- Sec. 377. Extraterritorial jurisdiction.

TITLE IV—PROTECTING THE BORDER

Subtitle A—Protecting the Northern Border

- Sec. 401. Ensuring adequate personnel on the northern border.
- Sec. 402. Northern border personnel.
- Sec. 403. Access by the Department of State and the INS to certain identifying information in the criminal history records of visa applicants and applicants for admission to the United States.
- Sec. 404. Limited authority to pay overtime.
- Sec. 405. Report on the integrated automated fingerprint identification system for ports of entry and overseas consular posts.

Subtitle B—Enhanced Immigration Provisions

- Sec. 411. Definitions relating to terrorism.
- Sec. 412. Mandatory detention of suspected terrorists; habeas corpus; judicial review.
- Sec. 413. Multilateral cooperation against terrorists.
- Sec. 414. Visa integrity and security.
- Sec. 415. Participation of Office of Homeland Security on Entry-Exit Task Force.
- Sec. 416. Foreign student monitoring program.
- Sec. 417. Machine readable passports.
- Sec. 418. Prevention of consulate shopping.

Subtitle C—Preservation of Immigration Benefits for Victims of Terrorism

- Sec. 421. Special immigrant status.
- Sec. 422. Extension of filing or reentry deadlines.
- Sec. 423. Humanitarian relief for certain surviving spouses and children.
- Sec. 424. "Age-out" protection for children.
- Sec. 425. Temporary administrative relief.
- Sec. 426. Evidence of death, disability, or loss of employment.
- Sec. 427. No benefits to terrorists or family members of terrorists.
- Sec. 428. Definitions.

TITLE V—REMOVING OBSTACLES TO INVESTIGATING TERRORISM

- Sec. 501. Attorney General's authority to pay rewards to combat terrorism.
- Sec. 502. Secretary of State's authority to pay rewards.
- Sec. 503. DNA identification of terrorists and other violent offenders.
- Sec. 504. Coordination with law enforcement.
- Sec. 505. Miscellaneous national security authorities.
- Sec. 506. Extension of Secret Service jurisdiction.
- Sec. 507. Disclosure of educational records.
- Sec. 508. Disclosure of information from NCES surveys.

TITLE VI—PROVIDING FOR VICTIMS OF TERRORISM, PUBLIC SAFETY OFFICERS, AND THEIR FAMILIES

Subtitle A—Aid to Families of Public Safety Officers

- Sec. 611. Expedited payment for public safety officers involved in the prevention, investigation, rescue, or recovery efforts related to a terrorist attack.
- Sec. 612. Technical correction with respect to expedited payments for heroic public safety officers.
- Sec. 613. Public safety officers benefit program payment increase.
- Sec. 614. Office of Justice programs.

Subtitle B—Amendments to the Victims of Crime Act of 1984

- Sec. 621. Crime victims fund.
- Sec. 622. Crime victim compensation.
- Sec. 623. Crime victim assistance.
- Sec. 624. Victims of terrorism.

TITLE VII—INCREASED INFORMATION SHARING FOR CRITICAL INFRASTRUCTURE PROTECTION

- Sec. 701. Expansion of regional information sharing system to facilitate Federal-State-local law enforcement response related to terrorist attacks.

TITLE VIII—STRENGTHENING THE CRIMINAL LAWS AGAINST TERRORISM

- Sec. 801. Terrorist attacks and other acts of violence against mass transportation systems.
- Sec. 802. Definition of domestic terrorism.
- Sec. 803. Prohibition against harboring terrorists.
- Sec. 804. Jurisdiction over crimes committed at U.S. facilities abroad.
- Sec. 805. Material support for terrorism.
- Sec. 806. Assets of terrorist organizations.
- Sec. 807. Technical clarification relating to provision of material support to terrorism.
- Sec. 808. Definition of Federal crime of terrorism.
- Sec. 809. No statute of limitation for certain terrorism offenses.
- Sec. 810. Alternate maximum penalties for terrorism offenses.
- Sec. 811. Penalties for terrorist conspiracies.
- Sec. 812. Post-release supervision of terrorists.
- Sec. 813. Inclusion of acts of terrorism as racketeering activity.
- Sec. 814. Deterrence and prevention of cyberterrorism.
- Sec. 815. Additional defense to civil actions relating to preserving records in response to Government requests.
- Sec. 816. Development and support of cybersecurity forensic capabilities.
- Sec. 817. Expansion of the biological weapons statute.

TITLE IX—IMPROVED INTELLIGENCE

- Sec. 901. Responsibilities of Director of Central Intelligence regarding foreign intelligence collected under Foreign Intelligence Surveillance Act of 1978.
- Sec. 902. Inclusion of international terrorist activities within scope of foreign intelligence under National Security Act of 1947.
- Sec. 903. Sense of Congress on the establishment and maintenance of intelligence relationships to acquire information on terrorists and terrorist organizations.
- Sec. 904. Temporary authority to defer submittal to Congress of reports on intelligence and intelligence-related matters.
- Sec. 905. Disclosure to Director of Central Intelligence of foreign intelligence-related information with respect to criminal investigations.
- Sec. 906. Foreign terrorist asset tracking center.
- Sec. 907. National Virtual Translation Center.
- Sec. 908. Training of government officials regarding identification and use of foreign intelligence.

TITLE X—MISCELLANEOUS

- Sec. 1001. Review of the department of justice.
- Sec. 1002. Sense of congress.
- Sec. 1003. Definition of "electronic surveillance".
- Sec. 1004. Venue in money laundering cases.
- Sec. 1005. First responders assistance act.
- Sec. 1006. Inadmissibility of aliens engaged in money laundering.
- Sec. 1007. Authorization of funds for dea police training in south and central asia.
- Sec. 1008. Feasibility study on use of biometric identifier scanning system with access to the fbi integrated automated fingerprint identification system at overseas consular posts and points of entry to the United States.
- Sec. 1009. Study of access.
- Sec. 1010. Temporary authority to contract with local and State governments for performance of security functions at United States military installations.
- Sec. 1011. Crimes against charitable americans.
- Sec. 1012. Limitation on issuance of hazmat licenses.
- Sec. 1013. Expressing the sense of the senate concerning the provision of funding for bioterrorism preparedness and response.
- Sec. 1014. Grant program for State and local domestic preparedness support.
- Sec. 1015. Expansion and reauthorization of the crime identification technology act for antiterrorism grants to States and localities.
- Sec. 1016. Critical infrastructures protection.

SEC. 2. CONSTRUCTION; SEVERABILITY.

18 USC 1 note.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed

pursuant to this section, except that the United States Virgin Islands, America Samoa, Guam, and the Northern Mariana Islands each shall be allocated 0.25 percent.

SEC. 1015. EXPANSION AND REAUTHORIZATION OF THE CRIME IDENTIFICATION TECHNOLOGY ACT FOR ANTITERRORISM GRANTS TO STATES AND LOCALITIES.

Section 102 of the Crime Identification Technology Act of 1998 (42 U.S.C. 14601) is amended—

(1) in subsection (b)—

(A) in paragraph (16), by striking “and” at the end;

(B) in paragraph (17), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(18) notwithstanding subsection (c), antiterrorism purposes as they relate to any other uses under this section or for other antiterrorism programs.”; and

(2) in subsection (e)(1), by striking “this section” and all that follows and inserting “this section \$250,000,000 for each of fiscal years 2002 through 2007.”.

SEC. 1016. CRITICAL INFRASTRUCTURES PROTECTION.

(a) **SHORT TITLE.**—This section may be cited as the “Critical Infrastructures Protection Act of 2001”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) The information revolution has transformed the conduct of business and the operations of government as well as the infrastructure relied upon for the defense and national security of the United States.

(2) Private business, government, and the national security apparatus increasingly depend on an interdependent network of critical physical and information infrastructures, including telecommunications, energy, financial services, water, and transportation sectors.

(3) A continuous national effort is required to ensure the reliable provision of cyber and physical infrastructure services critical to maintaining the national defense, continuity of government, economic prosperity, and quality of life in the United States.

(4) This national effort requires extensive modeling and analytic capabilities for purposes of evaluating appropriate mechanisms to ensure the stability of these complex and interdependent systems, and to underpin policy recommendations, so as to achieve the continuous viability and adequate protection of the critical infrastructure of the Nation.

(c) **POLICY OF THE UNITED STATES.**—It is the policy of the United States—

(1) that any physical or virtual disruption of the operation of the critical infrastructures of the United States be rare, brief, geographically limited in effect, manageable, and minimally detrimental to the economy, human and government services, and national security of the United States;

(2) that actions necessary to achieve the policy stated in paragraph (1) be carried out in a public-private partnership involving corporate and non-governmental organizations; and

(3) to have in place a comprehensive and effective program to ensure the continuity of essential Federal Government functions under all circumstances.

Critical
Infrastructure
Protection Act of
2001.
42 USC 5195c.

(d) ESTABLISHMENT OF NATIONAL COMPETENCE FOR CRITICAL INFRASTRUCTURE PROTECTION.—

(1) SUPPORT OF CRITICAL INFRASTRUCTURE PROTECTION AND CONTINUITY BY NATIONAL INFRASTRUCTURE SIMULATION AND ANALYSIS CENTER.—There shall be established the National Infrastructure Simulation and Analysis Center (NISAC) to serve as a source of national competence to address critical infrastructure protection and continuity through support for activities related to counterterrorism, threat assessment, and risk mitigation.

(2) PARTICULAR SUPPORT.—The support provided under paragraph (1) shall include the following:

(A) Modeling, simulation, and analysis of the systems comprising critical infrastructures, including cyber infrastructure, telecommunications infrastructure, and physical infrastructure, in order to enhance understanding of the large-scale complexity of such systems and to facilitate modification of such systems to mitigate the threats to such systems and to critical infrastructures generally.

(B) Acquisition from State and local governments and the private sector of data necessary to create and maintain models of such systems and of critical infrastructures generally.

(C) Utilization of modeling, simulation, and analysis under subparagraph (A) to provide education and training to policymakers on matters relating to—

(i) the analysis conducted under that subparagraph;

(ii) the implications of unintended or unintentional disturbances to critical infrastructures; and

(iii) responses to incidents or crises involving critical infrastructures, including the continuity of government and private sector activities through and after such incidents or crises.

(D) Utilization of modeling, simulation, and analysis under subparagraph (A) to provide recommendations to policymakers, and to departments and agencies of the Federal Government and private sector persons and entities upon request, regarding means of enhancing the stability of, and preserving, critical infrastructures.

(3) RECIPIENT OF CERTAIN SUPPORT.—Modeling, simulation, and analysis provided under this subsection shall be provided, in particular, to relevant Federal, State, and local entities responsible for critical infrastructure protection and policy.

(e) CRITICAL INFRASTRUCTURE DEFINED.—In this section, the term “critical infrastructure” means systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized for the Department of Defense for fiscal year 2002, \$20,000,000 for the Defense Threat Reduction Agency for activities of the National Infrastructure Simulation and Analysis Center under this section in that fiscal year.

Approved October 26, 2001.

LEGISLATIVE HISTORY—H.R. 3162:

CONGRESSIONAL RECORD, Vol. 147 (2001):

Oct. 23, 24, considered and passed House.

Oct. 25, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 37 (2001):

Oct. 26, Presidential remarks.

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