

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Petition of Cass)
County Telephone Company for)
Suspension and Modification of the)
Federal Communications Commission) Case No. TO-2004-0504
Requirement to Implement Number)
Portability)

In the Matter of the Petition of Craw-Kan)
Telephone Cooperative, Inc. for)
Suspension and Modification of the)
Federal Communications Commission) Case No. TO-2004-0505
Requirement to Implement Number)
Portability)

**REPLY BRIEF
OF CASS COUNTY TELEPHONE COMPANY
AND CRAW-KAN TELEPHONE COOPERATIVE, INC.**

I. INTRODUCTION

Cass County Telephone Company (Cass County) and Craw-Kan Telephone Cooperative, Inc. (Craw-Kan) (collectively "Companies" or "Petitioners") addressed the majority of Western Wireless's arguments in the Companies' Initial Brief. This Reply Brief will primarily respond to Western Wireless's claims about the Companies' obligations to port numbers and their willingness to do so. The Companies will also cite to the record evidence about the costs that the Companies and their customers would be forced to incur in the event that they are required to bear the burden for transporting Western Wireless's ported numbers. This cost evidence demonstrates that modification is necessary to avoid an adverse economic impact on customers and an undue economic burden on the Companies.

Western Wireless argues repeatedly that Petitioners are trying to delay or prevent Local Number Portability (“LNP”), but this is simply not true. Cass County and Craw-Kan are currently LNP capable, and the Companies are willing to port numbers to wireless carriers. The only issue in this case is the question of how to address the unresolved rating and routing issues that the new LNP requirements present. Because the Companies do not own facilities that would allow them to port numbers and deliver associated calls outside of their exchange boundaries, the issue boils down to which party will have to pay to transport ported calls outside of small rural local exchanges. The Commission’s Staff and the Office of Public Counsel both support the Companies’ position on modification. In thirty-five (35) other recent cases, this Commission has determined that the wireless carriers should pay these transport costs.

II. DISCUSSION

A. LOCAL NUMBER PORTABILITY

1. LNP Obligation

Western Wireless’s first point is that the FCC has ordered Cass County and Craw-Kan to provide LNP, and the companies “have been on notice for years, not just months, that they would need to provide LNP.”¹ First, as a practical matter, Cass and Craw-Kan have made the necessary investments and upgrades to their switching equipment to implement LNP. Because the Companies are already prepared to provide LNP, Western Wireless’s argument about “notice” of the need to provide LNP is a non-issue. The real issue in this case is the question of which carrier should bear responsibility for porting wireless calls outside of the Companies’ local exchange boundaries.

There is a distinct difference between the FCC's general LNP requirements (with which the Companies are ready and willing to comply) and the entirely new issue for small rural carriers of porting calls outside of their local exchange boundaries. This new "rating and routing" issue was first raised in the FCC's November 10, 2003 *Order*.² Although the FCC recognized the problem of designating different rating and routing points on LNP for small rural ILECs, the FCC's November 2003 *Order* did not conclusively resolve this issue. Instead, the FCC simply put the question off for later:

[T]he rating and routing issues raised by the rural wireline carriers have been raised in the context of non-ported numbers and are before the Commission in other proceedings. Therefore, without prejudging the outcome of any other proceeding, **we decline to address these issues at this time as they relate to intermodal LNP.**³

As a result, there are no guidelines or rules to resolve outstanding transport issues related to LNP for rural carriers. The LNP rating and routing issues raised by the FCC's November *Order* are both new and unresolved. Indeed, Western Wireless concedes that these issues have yet to be resolved by the FCC.⁴ Until the FCC acts to resolve this issue, it is appropriate for wireless carriers to bear the financial responsibility for transporting calls to their ported wireless numbers outside of small ILEC exchange boundaries.

¹ Western Wireless Initial Brief, p. 6.

² *Local Number Portability*, CC Docket No. 95-116, FCC 03-284, *Memorandum Opinion and Order*, rel. Nov. 10, 2003. (Emphasis added.)

³ *Id.* at fn 75.

⁴ Western Wireless Initial Brief, p. 15. ("What the FCC has not addressed yet is the compensation for the routing of calls where the actual routing of the traffic involves routing outside of the ILEC's rate center for proper delivery.")

2. Petitioners are ready and willing to provide LNP.

Western Wireless argues that there is “no evidence in the record of these cases that Cass and Craw-Kan made any effort to ascertain what arrangements it would need to make in order to meet their LNP obligations. . .”⁵ Western Wireless has overlooked the following evidence regarding: (1) Petitioners’ capability to provide LNP; (2) specific testing performed by Cass County in cooperation with Western Wireless; and (3) inquiries to SBC about transit arrangements.

a. The evidence shows that Petitioners are ready for LNP.

Western Wireless suggests that Petitioners are trying to “dazzle the Commission with the alleged impossibility of Cass and Craw-Kan learning to do something new . . .”⁶ But neither Cass County nor Craw-Kan have alleged that LNP is impossible. Rather, both Cass County and Craw-Kan “have indicated they are capable of offering local number portability on a technical level at this time.”⁷ Petitioners’ request for modification is based upon the evidence that it will be complicated, costly, and cumbersome for Petitioners to bear responsibility for calls that must be carried outside of their local exchange boundaries. Petitioners do not have arrangements or facilities in place to carry these calls, and the FCC has yet to clarify which carrier is responsible for such calls. The Companies and their customers should not be forced to bear the additional transport costs over and above the costs that the Companies have already incurred to become LNP-capable, at least not until the FCC and the courts have conclusively addressed the issue.

⁵ Western Wireless Initial Brief, p. 8.

⁶ *Id.* at p. 19.

b. Cass County completed an LNP test call with Western Wireless.

Western Wireless's claim that the Companies have not made efforts to determine what facilities are necessary to carry ported calls is belied by the evidence of specific LNP testing between Cass County and Western Wireless. Cass County responded to a specific request by Western Wireless to test routing for LNP, and Mr. Schoonmaker's testimony establishes that Cass County cooperated in a successful test.⁸ Mr. Schoonmaker's testimony explains that routing was "confirmed by an LNP test done between Cass County and Western Wireless where the Local Routing Number provided by Western Wireless was to 660-464-0999 which is a Western Wireless Butler Missouri routing number. It would use the landline facilities of the Company, SBC, and Sprint."⁹ Thus, it is simply wrong for Western Wireless to claim that the Companies have not investigated what facilities are necessary to carry ported calls. Western Wireless concedes that the real issue is which carrier should pay for the use of the facilities of other carriers such as SBC and Sprint.¹⁰ Western Wireless is the only party to this case that believes small rural carriers and their customers should pay to transport wireless calls at this time.

c. Inquiries to Large Carriers

Mr. Schoonmaker's testimony establishes that initial inquiries to large ILECs such as Southwestern Bell Telephone Co. (d/b/a SBC Missouri) about transiting traffic from small ILECs to wireless carriers have not resulted in promising prospects:

⁷ Staff's Initial Brief, p. 1 (citing Tr. at 216 and 239).

⁸ Schoonmaker Surrebuttal, Ex. 2, p. 13; see also Tr. 363 (from 7/21/4 Hearing); Tr. 233 (from 7/22/4 Hearing).

⁹ *Id.*

¹⁰ Western Wireless Initial Brief, p. 15. ("What the FCC has not addressed yet is the compensation for the routing of calls where the actual routing of the traffic involves routing outside of the ILEC's rate center for proper delivery.")

SBC was asked whether it would consider "transiting" traffic from a small ILEC to a wireless carrier. SBC's initial response was negative, and SBC suggested that the small ILEC should establish a direct trunk to the wireless carrier.¹¹

This testimony suggests that it may be difficult, if not impossible, for small carriers to obtain favorable rates and terms for "transiting" traffic through large incumbent local exchange carriers (ILECs) to wireless carriers such as Western Wireless.

d. The Commission has placed a sunset on modification.

Western Wireless suggests that the FCC's order "will languish over rural Missouri until it dies the natural death that Missouri's rural ILECs obviously hope for it."¹² This is simply not the case. Petitioners are ready and willing to implement LNP, and the only outstanding issue is who will pay for transport of ported calls outside of Petitioners' exchanges. All of this Commission's other orders granting LNP modification have placed a clear sunset date on the modification. For example, the recent KLM Telephone Company *Order* stated:

[T]he modifications made in this order will remain in effect only until 30 days after the Federal Communications Commission further addresses the rating and routing issues associated with porting numbers, unless otherwise ordered.¹³

¹¹ Schoonmaker Surrebuttal, Ex. 2, p. 11.

¹² Western Wireless Initial Brief, p. 24.

¹³ *In the Matter of KLM Telephone Company*, Case No. TO-2004-0401, *Report and Order*, issued Aug. 12, 2004.

Thus, the modification is only an interim measure until the FCC acts, and this limited modification is only appropriate since Petitioners and their customers should not be forced to pay for transporting a wireless carrier's ported calls unless and until that issue has been conclusively decided by the FCC.

3. Cost Evidence

Western Wireless claims that the Companies have not presented sufficient cost evidence to demonstrate adverse economic impacts on customers or undue economic burdens on the Companies.¹⁴ But the Companies' testimony provides competent and substantial evidence regarding both the initial costs of establishing transport arrangements and the ongoing costs of transport with Missouri-specific examples of rates for both direct and indirect interconnections.

a. Initial Costs to Establish Transport Arrangements

Western Wireless contends that Petitioners' cost evidence of establishing transport arrangements is "mere hypothesis and speculation, at best."¹⁵ But Cass County and Craw-Kan offered evidence from Mr. Schoonmaker that the cost for each company could be as high as \$100,000 to negotiate and, if necessary, arbitrate transport arrangements with large carriers such as SBC Missouri and Sprint Missouri.¹⁶ Mr. Schoonmaker testified that such costs would produce a "substantial economic burden" on the companies, "particularly when it is questionable whether there would be any method for the Companies to recover such costs and when it is unknown whether they will ultimately be found to have responsibility to arrange for such facilities."¹⁷ Mr.

¹⁴ Western Wireless Initial Brief, pp. 20-24.

¹⁵ *Id.* at p. 8.

¹⁶ Schoonmaker Direct, Ex. 1, p. 19.

¹⁷ *Id.* at p. 20.

Schoonmaker also observed that the other non-recurring costs that may be necessary to revise and/or modify the Companies' existing certificates of service authority and tariffs could also produce an economic burden on the Companies.¹⁸

Mr. Schoonmaker has over thirty years of experience in the telecommunications industry working with incumbent local exchange companies, and Mr. Schoonmaker has provided testimony before many state utility regulatory commissions.¹⁹ Moreover, Mr. Schoonmaker has testified before the Missouri Commission many times, and he has also participated in various cases, industry workshops, and technical conferences related to issues such as expanded calling,²⁰ intercompany compensation,²¹ and state and federal universal service funding.²² Mr. Schoonmaker's expert testimony on costs is competent and substantial.

b. Ongoing Per-Call/Per-Minute Costs

Mr. Schoonmaker's testimony establishes that recurring costs to transport ported numbers "would depend on the volume of calls and possibly minutes to ported numbers; the location of the wireless companies' MSOs, and the rates charged by other LECs for

¹⁸ Schoonmaker Direct, Ex. 1, p. 20

¹⁹ *Id.* at pp. 3-4.

²⁰ *In the Matter of the Establishment of a Plan for Expanded Calling Scopes*, Case No. TO-92-306; *In the Matter of an Investigation into the Provision of Community Optional Calling Service in Missouri*, Case No. TW-97-333; *Joint Request for Clarification and Determination of Certain Aspects as to Continued Provisioning of Metropolitan Calling Area (MCA) service*, Case No. TO-98-379; *Investigation for the Purpose of Clarifying and Determining Certain Aspects Surrounding the Provisioning of Metropolitan Calling Area (MCA) Service*, Case No. TO-99-483, *Further Investigation of Metropolitan Calling Area (MCA) Service*, Case No. TO-2001-391; *Calling Scopes Investigation*, Case No. TW-2004-0471.

²¹ *In the Matter of an Investigation Concerning the Continuation or Modification of the Primary Toll Carrier Plan*, Case No. TO-97-217; *In the Matter of an Investigation Concerning the Primary Toll Carrier Plan and IntraLATA Dialing Parity*, Case No. TO-99-254; *Investigation into Signaling Protocols, Call Records, Trunking Arrangements, and Traffic Measurement*, Case No. TO-99-593; *Enhanced Records Exchange Rule*, Case No. TX-2003-0301.

²² *Federal-State Board on Federal Universal Service*, FCC Docket No. 96-45; *Investigation into the Missouri Universal Service Fund*, Case No. TO-98-329.

these services.”²³ Mr. Schoonmaker testified that direct interconnection agreements in Missouri “have had rates in the neighborhood of 2 cents [per minute] for transport and termination.”²⁴ Indirect interconnection contracts in Missouri “have rates of 3½ cents per minute.”²⁵ Mr. Schoonmaker also explained that “the rates for transport and termination of traffic are generally considerably higher in rural areas and for rural companies than they are for urban companies.”²⁶

Western Wireless argues that transport costs could be as low as \$270 per company, per month.²⁷ This estimate begs an important question. If the transport costs are truly so insignificant (and transport is the only remaining issue because both Companies are already LNP-capable), then why is Western Wireless objecting so strenuously to accepting responsibility for such costs on an interim basis? The answer may lie in the interconnection rates. During the KLM Telephone Company case, Western Wireless witness Ron Williams testified that if a small company has to pay a rate of 3½ cents per minute (an approximation of SBC’s access rates) to transport ported wireless calls, then monthly ongoing costs could be as much as seven times higher than his original estimate of \$270, or approximately \$1,890 per month.²⁸

4. Call Intercept Messages

Western Wireless argues that the intercept message proposed by Staff and agreed to by the companies “would unreasonably discriminate against wireless carriers,”²⁹ and Western Wireless claims that modification would allow Petitioners “to

²³ Schoonmaker Direct, Ex. 1, p. 21.

²⁴ Schoonmaker Cross-Examination, Tr. 236.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Western Wireless Initial Brief, p. 15.

²⁸ Tr. 382 in KLM hearing, Case No. TO-2004-0401, July 21, 2004.

²⁹ Western Wireless Initial Brief, p. 31.

block calls from their customers to ported numbers until the FCC takes further action on issues related to compensation for the routing of ported calls.”³⁰

Western Wireless’s arguments have no merit. Wireless carriers that have made arrangements to transport calls from Petitioners’ exchanges to wireless facilities will not have their calls blocked. In other words, calls will only be blocked in the event that a wireless carrier seeks to port calls over indirect connections without making arrangements to transport the call. Petitioners are LNP-ready, and all a wireless carrier needs to do is establish the transport arrangements to begin porting calls. Many wireless carriers already have interconnection agreements with large carriers such as SBC Missouri that cover transport arrangements, so it may not even be necessary for some wireless carriers to establish new agreements. Indeed, during the hearing, Mr. Williams testified that Western Wireless had agreements with SBC, Sprint and CenturyTel that allow Western Wireless to transport calls via a “transit” arrangement for fractions of a penny.³¹ Thus, Western Wireless already has arrangements in place in Missouri to transport calls. If any calls are “misrouted” as a result of the modification, it will be Western Wireless’s fault.

5. Absence of Benefits

Western Wireless claims that the Companies “have offered no comparison as to how any potential costs to end users would be offset by the favorable service and price impacts generally associated with the advent of local competition.”³² This is not so. The Companies did consider potential benefits and concluded that wireline-to-wireless LNP would offer no tangible benefit for the Companies’ rural customers. Instead, the

³⁰ Western Wireless Initial Brief, p. 4.

³¹ Tr. 373-76.

Companies and possibly their customers would bear the costs of a service solely designed to benefit wireless carriers and their customers.

The Commission's recent LNP *Order* in the KLM Telephone case summarized the lack of benefits to the Companies and their customers:

First, it is uncertain whether Western Wireless or KLM will ultimately be required to bear the costs of transporting calls to ported numbers. Also, in order to transport calls outside of its service area, KLM will have to bear the costs of new facilities, third-party arrangements and regulatory processes. Lastly, **KLM stands to gain no benefit from these costs.** These factors combine to create an undue economic burden. Modification of KLM's obligation to transport calls to ported numbers is consistent with the public interest, convenience and necessity. Modification is certainly consistent with the interest, convenience and necessity of KLM's customers. **KLM's customers would otherwise have to bear the cost of transporting calls, while receiving no benefit.**³³

The Companies and their customers have already borne the costs to become LNP-capable, and there is no "benefit" in requiring either the Companies or their customers to shoulder the additional costs of carrying Western Wireless's ported calls to Western Wireless's facilities far beyond the Companies' exchange boundaries.

6. Minnesota and Utah LNP cases

Western Wireless argues that the Companies should approach other small ILECs to "explore unified solutions" to intermodal LNP, and Western Wireless suggests that

³² Western Wireless Initial Brief, p. 21.

the Companies should follow the approach used by a group of small Minnesota companies.³⁴ Western Wireless's argument is flawed for a number of reasons. First, Minnesota's small companies have access to a different network configuration than is available to Cass County and Craw-Kan.³⁵ Second, Minnesota's large Regional Bell Operating Company (RBOC) Qwest was unwilling to offer transit services to the Minnesota companies at its lowest TELRIC or reciprocal compensation rates.³⁶ In response to initial inquiries about transiting wireless traffic from small ILECs to wireless carriers, Missouri's RBOC (SBC Missouri) took the position that it will not transit traffic from small ILECs to wireless carriers.³⁷ Third, it would be fruitless to explore "unified solutions" with Missouri's other small companies because all of Missouri's other small companies have received the exact same modification that Cass County and Craw-Kan seek in this case, and some of the other companies have also received two-year suspensions of the LNP requirements.

Fourth, Mr. Schoonmaker testified that the transport arrangement sought by Western Wireless in Missouri is more complicated than in Minnesota because of multiple tandems owned by different companies:

[I]n the Kansas City area, not only would a Southwestern Bell tandem be involved, but also a – a Sprint tandem . . . to route traffic to Western Wireless. And – and there was also discussion that in the Springfield

³³ *In the Matter of KLM Telephone Company*, Case No. TO-2004-0401, *Report and Order*, issued Aug. 12, 2004.

³⁴ Western Wireless Initial Brief, pp. 10-12.

³⁵ Specifically, the Minnesota small companies have access to centralized equal access services through Minnesota Equal Access Network Services (MEANS) which is the parent company of the Minnesota Independent Equal Access Corporation (MIEAC), an equal access provider. See *In the Matter of the Minnesota Independent Equal Access Corporation's Application for Certificate of Public Convenience and Necessity*, Docket No. P-3007/NA-89-76, 1993 Minn. PUC LEXIS 11 (Jan 11, 1993).

³⁶ Tr. 379 (from 7/21/4 Hearing).

LATA, where Craw-Kan does provide service, there might – depending on the local routing numbers that was used, there might be involvement of a –Century[Tel] tandem in addition to the Sprint tandem – or the SBC tandem in Springfield. And that could be true in other parts of the state as well.³⁸

Thus, the arrangement agreed upon by the small carriers in Minnesota is simply not an option in Missouri.

The more appropriate solution to the unresolved transport issues is the one that Western Wireless voluntarily agreed to in Utah. Although Western Wireless has vigorously opposed the Companies' proposed modification in Missouri, it appears that Western Wireless agreed to virtually the same modification in Utah. The Stipulation between the Utah small companies (the Utah Rural Telecom Association or "URTA"), the Utah Commission's Staff, and Western Wireless was described by the Utah Commission as follows:

Western Wireless will establish a direct two-way point of interconnection with all URTA member companies within each URTA member company network. . . . Alternatively, Western Wireless may elect not to have a direct connection with a URTA member company. If such election is made, **Western Wireless will be financially responsible**

³⁷ Schoonmaker Surrebuttal, Ex. 2, p. 11; see also Tr. 379-80.

³⁸ Tr. 240.

for any and all costs related to the routing of traffic outside a URTA member company network district.³⁹

It is puzzling that Western Wireless voluntarily agreed to either establish a direct interconnection or pay the costs of indirect interconnection in Utah yet has so adamantly refused to agree to either of these solutions in Missouri.

7. Routing Issues

Western Wireless mistakenly argues that “when a rural LEC customer calls a wireless customer, the rural LEC is responsible for transporting the call and paying the cost of this transportation.”⁴⁰ This is not so. Mr. Schoonmaker’s testimony explains that it is not standard industry practice for small ILECs to deliver local calls to locations outside of their local calling areas:

Local calls are not generally delivered to locations outside the local calling area of the originating carrier. Calls to wireless carriers outside the local calling area of the LEC are typically dialed as toll calls and delivered by the presubscribed carrier of the customer as toll calls. The presubscribed carrier is responsible for transport of the call, not the LEC of the originating carrier.⁴¹

In other words, interexchange carriers (IXCs) such as AT&T, MCI, and Sprint are responsible for carrying calls outside of the Companies’ exchange boundaries and paying the costs of transportation. The Companies should not be forced to bear the

³⁹ *In the Matter of the Utah Rural Telecom Association’s Request for Suspension of Wireline to Wireless Number Portability*, Docket No. 04-2424-01, *Order Adopting Stipulation*, 2004 Utah PUC LEXIS 141, issued July 7, 2004. (Emphasis added.)

⁴⁰ Western Wireless Initial Brief, p. 13.

⁴¹ Schoonmaker Surrebuttal, Ex. 2, p. 10.

burden of transport costs to carry calls to Western Wireless before the FCC and the courts have conclusively determined which carrier should bear these costs.

Western Wireless also confuses reciprocal compensation obligations with transport obligations. For example, Western Wireless claims that the Companies' position "is flatly inconsistent with the directive in Sections 251(b) and 252(d) of the Act that compensation arrangements for the transport of traffic be 'reciprocal.'" ⁴² The highlighted portion of the previous quote reveals that Western Wireless's argument is based upon provisions that address compensation arrangements, not transport responsibilities. Western Wireless itself has conceded that the transport issue has not yet been decided by the FCC. Western Wireless's argument confuses apples with oranges, and it should be rejected by the Commission.

Western Wireless also claims that "an ILEC must take financial responsibility for local calls originated by its own customers."⁴³ Not surprisingly, Western Wireless fails to mention the FCC cases that address the treatment of calls to wireless carriers outside of local exchange boundaries. Small rural carriers are not required to deliver traffic to wireless carriers' facilities for free. The FCC has recognized that some landline customers must make toll calls to reach wireless customers. In the *TSR Wireless* case, the FCC explained that it is appropriate for a LEC to continue to charge toll to its customers to reach wireless subscribers outside of the LEC's local calling area.⁴⁴ The Companies only provide local calling to their customers, and toll calling is provided by a customer's long distance carrier in accordance with the equal access requirements of

⁴² Western Wireless Initial Brief, p. 13 (emphasis added).

⁴³ *Id.* at p. 14.

⁴⁴ *TSR Wireless*, 15 FCC Rcd 11166, Release No. 00-194, rel. June 21, 2000.

the FCC and the Missouri Commission. Thus, IXCs continue to bear the financial responsibility for carrying these calls.

8. CenturyTel Case

Western Wireless states that “carriers must ensure that their call routing procedures do not result in dropped calls to ported numbers.”⁴⁵ Western Wireless adds, “In fact, the FCC recently proposed fining CenturyTel \$100,000 for failing to properly route calls to wireless customers with ported numbers.”⁴⁶ Western Wireless’s argument is just another red herring. If the Commission grants the Companies’ requested modification, as it already has for thirty-five (35) other Missouri small companies, then Western Wireless may choose to either: (a) establish a direct connection with the Companies, or (b) establish arrangements for carrying calls to Western Wireless’s ported numbers from the Companies’ local exchange areas to Western Wireless’s facilities. Under either scenario, there should be no dropped calls.

In addition, *CenturyTel* case cited by Western Wireless in support of its argument involved different facts. Specifically, the *CenturyTel* case involved a company that did not have an LNP-capable switch and did have a direct trunk with a porting wireless carrier.⁴⁷ The facts in this case are completely different because both companies do have LNP-capable switches but do not have direct trunks with Western Wireless. Moreover, the *CenturyTel Notice* was rescinded by the FCC in an order adopting a consent decree released on July 12, 2004.⁴⁸ Thus, the *CenturyTel* decision is not on point and no longer good authority.

⁴⁵ Western Wireless Initial Brief, p. 15.

⁴⁶ *Id.* at p. 30.

⁴⁷ *In the Matter of CenturyTel*, File No. EB-04-IH-0012, *Order*, rel. July 9, 2004.

⁴⁸ *Id.*

B. COMPETITION

Western Wireless argues that Cass County and Craw-Kan's rural customers "would like to have competitive options"⁴⁹ and suggests that modification would deny customers "the benefits of competitive telecommunications choices in their service territories in rural Missouri."⁵⁰ Western Wireless also states that "Congress did not intend to insulate smaller or rural LECs from competition."⁵¹ The problem with these claims is that competition is already flourishing in rural exchanges.

For example, Mr. Schoonmaker testified that there are plenty of competitive wireless options in Petitioners' service areas:

Q. To your knowledge, are there multiple wireless providers in Cass and Craw-Kan today?

A. Yes. In both companies there are several wireless carriers that provide service. I think 4 to 6 in – in each companies' area, and customers have wireless service available from – from multiple carriers.

Q. Do you believe, as a result of that, there's competitive entry in those exchanges?

A. Absolutely.⁵²

Thus, wireless carriers are already competing in the Companies' service areas, and many of the Companies' customers have both wireline and wireless service. Nothing prevents customers from using both wireline and wireless service or from dropping their

⁴⁹ Western Wireless Initial Brief, p. 28.

⁵⁰ *Id.* at p. 26.

⁵¹ *Id.* at p. 18.

⁵² Tr. 245 (from 7/22/4 Hearing).

wireline service altogether. Customers in the Companies' exchanges already have many competitive wireless options for telecommunications services.

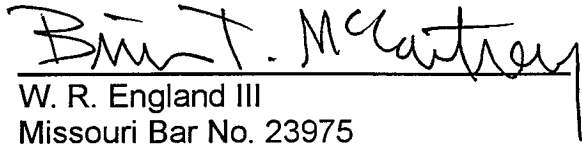
Not only are there many choices of providers, but it appears that the penetration rate for wireless carriers is already approaching that of the wireline carriers. In fact, Western Wireless testified in the KLM Telephone Company case that it already has approximately 400 customers in KLM's service area, and Western Wireless also testified that it has 25% market share.⁵³ Thus, according to Western Wireless there are already 1,600 wireless customers in KLM's service area which has 1,625 KLM wireline subscribers. In other words, wireless carriers already have virtually the same number of subscribers as KLM does in the same service area. This nearly 100% penetration rate indicates market saturation, not a lack of competition. In short, competition is already taking place in the Companies' service areas, and the Companies' requested suspension will have no adverse impact on the wireless carriers' ability to compete.

III. CONCLUSION

The Companies are both LNP-capable and prepared to port numbers to wireless carriers under the same modification that this Commission has granted for thirty-five (35) other small Missouri carriers. The evidence cited in the Companies' Initial Brief and this Reply Brief establishes that modification is necessary to avoid an adverse economic impact on customers and an undue economic burden on the Companies. Modification will not prevent wireless competition, which is already robust in the Companies' rural exchanges. Therefore, the Companies respectfully request that the Commission grant their Petitions for modification of the FCC's intermodal LNP requirements.

⁵³ Tr. 386-87 (from 7/21/4 Hearing).

Respectfully submitted,

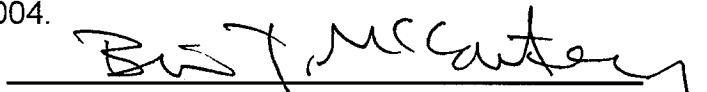


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Certificate of Service

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record as shown on the service list this 10th day of September 2004.



Brian T. McCartney