

Exhibit No. \_\_\_\_\_  
Issue: Suspension and Modification of LNP  
Requirements  
Witness: Ron Williams  
Type of Exhibit: Rebuttal Testimony  
Sponsoring Party: Western Wireless  
Case No. TO-2004-0504 (Cass County)  
                  TO-2004-0505 (Craw-Kan)  
Date: July 2, 2004

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

**CASE NOS. TO-2004-0504 AND TO-2004-0505**

**REBUTTAL TESTIMONY**

**OF**

**RON WILLIAMS**

**ON BEHALF OF WWC HOLDING COMPANY, INC.  
(WESTERN WIRELESS dba CellularOne)**

**July 2, 2004**

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**OF**  
**RON WILLIAMS**

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1                   **I.       QUALIFICATIONS AND PURPOSE OF TESTIMONY**

2   **Q.   PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3   A.   My name is Ron Williams. My business address is 3650 131st Avenue South East,  
4       Bellevue, Washington 98006.

5   **Q.   BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6   A.   I am employed as Director – InterCarrier Relations by Western Wireless Corporation.  
7       My duties and responsibilities include developing effective and economic  
8       interconnection and operational relationships with other telecommunications carriers,  
9       including the establishment of local number portability (“LNP”) arrangements and  
10      interconnection agreements. I work with other departments within Western Wireless  
11      to assess company interconnection and LNP needs and interface with carriers to  
12      ensure arrangements are in place to meet the operational objectives of the company.

13 **Q.   PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

14 A.   I have a BA in Accounting and a BA in Economics from the University of  
15      Washington. I also have a MBA from Seattle University.

16 **Q.   FOR WHOM ARE YOU TESTIFYING IN THIS PROCEEDING?**

17 A.   I am testifying on behalf of WWC Holding Company ("Western Wireless"), which  
18      provides commercial mobile radio services ("CMRS") in the state of Missouri under  
19      the brand name CellularOne.

20 **Q.   WHAT IS YOUR PROFESSIONAL EXPERIENCE IN THE FIELD OF**  
21 **TELECOMMUNICATIONS?**

22 A.   I have ten years experience working for GTE (now Verizon), including six years in  
23      telephone operations and business development, and four years in cellular operations.  
24      I also have two years experience in start-up CLEC operations with FairPoint

1           Communications. Since August 1999, I have worked for Western Wireless, first as  
2           the Director of CLEC operations and, more recently, in my current position in  
3           Industry Relations and as a project lead for implementation of LNP and  
4           interconnection with other carriers.

5       **Q.   HAVE YOU TESTIFIED BEFORE ON BEHALF OF WESTERN WIRELESS?**

6       A.   Yes, I have testified as the Company's witness in several interconnection arbitration  
7           proceedings. Recently, I have testified in LNP suspension matters in Nebraska, New  
8           Mexico, and South Dakota.

9       **Q.   WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

10      A.   The purpose of my testimony is to challenge the requests for suspension of federally  
11           mandated number portability obligations filed by Cass County Telephone Company  
12           and Craw-Kan Telephone Cooperative (“Petitioners”). My testimony will address the  
13           following issues:

- 14                   ▪   **What are the Petitioners’ obligations to implement LNP and what are the**  
15                    **standards for suspension of those obligations?**
- 16                   ▪   **Does Cass County’s or Craw-Kan’s petition and testimony fail to meet**  
17                    **the standards for suspension of LNP obligations?**
- 18                   ▪   **Are there any real operational roadblocks to the implementation of local**  
19                    **number portability by the Petitioners?**
- 20                   ▪   **What is the issue with respect to transport costs and what is the impact**  
21                    **on the Petitioners to resolve this transport issue?**
- 22                   ▪   **Do the Petitioners make a valid claim that LNP in their service area is not**  
23                    **in the public interest?**

24           My testimony addresses the standards that should apply in resolving this Petition and  
25           presents the positions of Western Wireless on the issues identified above. For each of  
26           the issues, I will identify the applicable standard, establish the facts relevant to a

1 determination, and recommend to the Missouri Public Service Commission  
2 ("Commission") an appropriate resolution.

3 **Q. HAS THE FCC ALREADY ADDRESSED THE SAME ISSUES RAISED IN THIS PETITION?**

4 A. The FCC has asserted jurisdiction over issues related to CMRS number portability by  
5 citing its authority under Sections 1, 2, 4(i) and 332 of the Communications Act.<sup>1</sup> I  
6 know that many rural ILECs applied to the FCC for a waiver, and a waiver was  
7 granted in January this year. I am attaching the FCC order on rural intermodal LNP  
8 implementation as Exhibit 1. This case raises the same issues that have already been  
9 addressed by the FCC under its jurisdiction.

10 **Q. HAS THE FCC RECENTLY DECIDED ANY OTHER RURAL LNP IMPLEMENTATION**  
11 **WAIVER OR SUSPENSION REQUESTS?**

12 A. Yes. Within the last two months the FCC has issued at least three orders denying  
13 LNP implementation suspensions for rural wireless and rural wireline carriers. In an  
14 order released May 10, 2004 the FCC denied waiver and extension requests for three  
15 rural wireless carriers who had claimed they did not receive sufficient notice to  
16 implement LNP and that their rural status constituted special circumstances.<sup>2</sup>  
17 Similarly, on May 13, 2004 the FCC denied a waiver petition for temporary  
18 suspension made by North-Eastern Pennsylvania Telephone Company (NEP); a rural

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<sup>1</sup> *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, ¶ 155 (1996); *see also* Mem. Op. and Order and Further Notice of Proposed Rulemaking, ¶ 8, CC Docket No. 95-116, FCC 03-284 (rel. Nov. 10, 2003) "*Intermodal Porting Order*" – attached as Exhibit RW-1.

<sup>2</sup> In the Matter of Numbering Resource Optimization and Telephone Number Portability, Petitions of Advantage Cellular Systems, Inc., Corr Wireless Communications, LLC, and Plateau Telecommunications, Inc. for Limited Waiver and Extension of Porting and Pooling Obligations, CC Docket No. 99-200, 95-116, FCC 04-1291 (released May 10, 2004).

1 LEC with eight exchanges.<sup>3</sup> NEP is planning to implement LNP in conjunction with  
2 a switch replacement and argued that “it did not anticipate that intermodal porting  
3 would be an ‘imminent’ requirement until the Commission’s Intermodal LNP Order  
4 released in November 2003.” NEP also stated that service feature issues arose during  
5 implementation planning that would mean that NEP would not meet the May 24,  
6 2004 deadline for LNP implementation. In denying NEP’s request, the FCC  
7 responded:

8 “We are not persuaded by NEP’s claims that special circumstances exist  
9 warranting a waiver of the May 24, 2004 porting deadline in order to  
10 accommodate NEP’s switch delivery and deployment schedule, and  
11 provide additional time to resolve any service feature issues. We find  
12 that NEP has not presented “extraordinary circumstances beyond its  
13 control in order to obtain an extension of time.” NEP has not shown that  
14 challenges it may face are different from those faced by similarly  
15 situated carriers who are able to comply. Generalized references to  
16 limited resources and implementation problems do not constitute  
17 substantial, credible evidence justifying an exemption from the porting  
18 requirements. NEP has known since 1996 that it would need to support  
19 LNP within six months of a request from a competing carrier. Although  
20 wireless LNP was delayed, all carriers have been on notice since July  
21 2002 that wireless and intermodal LNP would become available  
22 beginning in November 2003. Thus, NEP has had sufficient time to  
23 follow through with these mandates and prepare for LNP.”<sup>4</sup>

24 In this situation, which is similar to the instant petition, the FCC decision delivered a  
25 clear and consistent message: The standards are very high for obtaining a waiver of  
26 LNP obligations, the onus is on individual carriers to do all in their power to meet the

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<sup>3</sup> In the Matter of Telephone Number Portability, Petitions of The North-Eastern Pennsylvania Telephone Company for Temporary Waiver of its Porting Obligations, CC Docket No. 95-116, FCC 04-1312 (released May 13, 2004) – attached as Exhibit RW-2.

<sup>4</sup> See supra ¶10

1 obligations, and difficulties which are similar to those faced by other carriers do not  
2 constitute special circumstances worthy of any suspension. LNP is an FCC mandate  
3 and it is clear the FCC expects enforcement of its implementation.

4 **II. WHAT ARE THE OBLIGATIONS OF CASS COUNTY AND CRAW-KAN TO**  
5 **IMPLEMENT LNP AND WHAT ARE THE STANDARDS FOR SUSPENDING**  
6 **THOSE OBLIGATIONS?**

7 **Q. ARE CASS COUNTY TELEPHONE AND CRAW-KAN TELEPHONE UNDER AN**  
8 **AFFIRMATIVE OBLIGATION TO IMPLEMENT LNP?**

9 A. Yes. All LECs have known since 1996 that they would be required to provide LNP.  
10 Section 251(b)(3) of the Communications Act of 1934, as amended (“Act”), requires  
11 all LECs to provide LNP.<sup>5</sup> In its rules implementing the LNP requirements of the  
12 Act, the FCC recognized that the public interest would be served by requiring carriers  
13 to implement LNP in all areas, but conditioned the requirement to implement LNP in  
14 rural areas on a carrier receiving a bona fide request (“BFR”) from another carrier.<sup>6</sup>

15 **Q. DID WESTERN WIRELESS SEND A BONA FIDE REQUEST TO CASS COUNTY**  
16 **TELEPHONE REQUESTING IMPLEMENTATION OF LNP?**

17 A. Yes. Western Wireless sent a bona fide request to Cass County Telephone on  
18 November 4, 2003.

19 **Q. DID WESTERN WIRELESS SEND A BONA FIDE REQUEST TO CRAW-KAN TELEPHONE**  
20 **REQUESTING IMPLEMENTATION OF LNP?**

21 A. Yes, just recently. In October and November 2003, Western Wireless sent bona fide  
22 requests for LNP to many LECs that have overlapping service areas with Western  
23 Wireless. Western Wireless has always planned to pursue LNP in additional

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<sup>5</sup> 47 U.S.C. § 251(b)(3).

<sup>6</sup> 47 C.F.R. § 52.26.

1 overlapping serving areas and is now in the process of issuing bona fide requests to a  
2 second group of carriers which includes Craw-Kan Telephone.

3 **Q. WHAT IS THE STANDARD FOR GRANTING THESE PETITIONERS' REQUESTS FOR A**  
4 **SUSPENSION OF THEIR LNP OBLIGATIONS?**

5 A. Congress established a very high standard to be met for a LEC to obtain a suspension  
6 of its LNP obligations. Section 251(f)(2) of the Act permits state commissions to  
7 suspend a carrier's LNP obligations only:

8 to the extent that, and for such duration as, the State commission  
9 determines that such suspension or modification —  
10 (A) is necessary: (i) to avoid significant adverse impact on users of  
11 telecommunications services generally; (ii) to avoid imposing a  
12 requirement that is unduly economically burdensome; or (iii) to  
13 avoid imposing a requirement that is technically infeasible; and  
14 (B) is consistent with the public interest, convenience, and  
15 necessity.<sup>7</sup>

16  
17 Further, the FCC has stated: "Congress intended exemption, suspension, or  
18 modification of the section 251 requirements to be the exception rather than the  
19 rule.... We believe that Congress did not intend to insulate smaller or rural LECs  
20 from competition."<sup>8</sup>

21 **Q. IF CONGRESS DID NOT INTEND TO INSULATE RURAL TELEPHONE COMPANIES FROM**  
22 **COMPETITION, THEN HOW SHOULD THIS COMMISSION DETERMINE WHETHER OR**  
23 **NOT TO SUSPEND THE CASS COUNTY TELEPHONE AND CRAW-KAN TELEPHONE**  
24 **LNP OBLIGATIONS?**

25 A. The Petitioners bear the burden of demonstrating that they meet the statutory standard  
26 for a suspension of LNP obligations. Although Section 251(f) of the Act provides  
27 that rural carriers may obtain a suspension of their LNP obligations, the FCC has

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<sup>7</sup> 47 U.S.C. § 251(f)(2).

<sup>8</sup> *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report & Order, 11 F.C.C.R. 15499, 16118 (1996) ("*LNP First Report and Order*").

1 concluded that a suspension is only appropriate under unique and compelling  
2 circumstances:

3 Thus, we believe that, in order to justify continued exemption once a  
4 bona fide request has been made, or to justify suspension or  
5 modification of the Commission's section 251 requirements, a LEC  
6 must offer evidence that application of those requirements would be  
7 likely to cause undue economic burdens beyond the economic burdens  
8 typically associated with efficient competitive entry. State  
9 commissions will need to decide on a case-by-case basis whether such  
10 a showing has been made.<sup>9</sup>

11 **Q. IN THE ABSENCE OF THE IMPLEMENTATION DELAY ALREADY GRANTED TO RURAL**  
12 **LECS BY THE FCC, WHAT ARE THE PREVAILING GUIDELINES FOR**  
13 **IMPLEMENTATION OF LNP AND HOW DO THEY RELATE TO THE PETITIONERS'**  
14 **SITUATION?**

15 Local Number Portability requirements were established for all LECs in Section  
16 251(b)(3) of the Telecom Act in 1996<sup>10</sup>. Specific to the Petitioners in this case, the  
17 FCC conditioned the requirement to implement LNP in rural areas on a carrier  
18 receiving a BFR from another carrier.<sup>11</sup> While a rural carrier has six months from  
19 receipt of a BFR to implement LNP, the FCC guidelines for switch preparation  
20 indicate a much shorter time may be necessary:<sup>12</sup>

21 After the deadline for deployment of number portability in an MSA in  
22 the 100 largest MSAs, according to the deployment schedule set forth  
23 in the appendix to this part, a LEC must deploy number portability in  
24 that MSA in additional switches upon request within the following  
25 time frames:

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<sup>9</sup> *LNP First Report and Order* at 16118.

<sup>10</sup> 47 U.S.C. § 251(b)(3).

<sup>11</sup> 47 C.F.R. § 52.23(c).

<sup>12</sup> 47 C.F.R. § 52.23(b)(2)(iv).

- 1 (A) For remote switches supported by a host switch equipped for  
2 portability (“Equipped Remote Switches”), within 30 days;
- 3 (B) For switches that require software but not hardware changes to  
4 provide portability (“Hardware Capable Switches”), within 60  
5 days;
- 6 (C) For switches that require hardware changes to provide  
7 portability (“Capable Switches Requiring Hardware”), within  
8 180 days;
- 9 (D) For switches not capable of portability that must be replaced  
10 (“Non Capable Switches”), within 180 days.

11 The language in the Act is clear: While LNP proceeded by decree for the majority of  
12 telephone subscribers, number portability would be triggered by a Bona Fide Request  
13 process in the rest of the country. Further, the BFR process established an  
14 implementation interval (maximum) of 180 days.

15 The FCC reiterated this rule with respect to intermodal LNP on November 10, 2003  
16 (which I have attached as Exhibit RW-1):

17 “Therefore for wireline carriers operating in areas outside of the 100  
18 largest MSAs, we hereby waive, until May 24, 2004, the requirement  
19 that these carriers port numbers to wireless carriers that do not have a  
20 point of interconnection or numbering resources in the rate center  
21 where the customer’s wireline number is provisioned.”<sup>13</sup>

22 Then, again, on January 16, 2004 the FCC spelled out the date that the  
23 implementation of LNP should occur for the Petitioner in this docket:

24 “Accordingly, IT IS ORDERED that, pursuant to authority contained  
25 in sections 1, 4(i), 251, and 332 of the Communications Act of 1934,  
26 as amended, 47 U.S.C. §§ 151, 154(i), 251, 332, we GRANT a limited  
27 waiver of the wireline-to-wireless porting requirement, until May 24,  
28 2004, for local exchange carriers with fewer than two percent of the  
29 nation’s subscriber lines in the aggregate nationwide that operate in the  
30 top 100 Metropolitan Statistical Areas and have not received a request

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<sup>13</sup> In the Matter of Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, CC Docket No. 95-116, FCC 03-284 at 29 (rel. November 10, 2003) “*Intermodal Porting Order*”—attached as Exhibit RW-1.

1 for local number porting from either a wireline carrier prior to May 24,  
2 2004 or a wireless carrier that has a point of interconnection or  
3 numbering resources in the rate center where the customer's wireline  
4 number is provisioned.”<sup>14</sup>

5 There is nothing vague or indefinite about the LNP obligations imposed on the  
6 Petitioners. This eventuality has been foreseeable for the eight years since the  
7 Telecom Act was passed in February 1996. Western Wireless sent Cass County a  
8 bona fide request 8 months ago. The FCC released its *Intermodal Porting Order*  
9 more than 7 months ago. Clearly, the time that has already been provided to these  
10 Petitioners should be sufficient to meet their obligations.

11 **Q. SHOULD THE FACT THAT MANY SIMILARLY SITUATED LECs ARE NOT SEEKING A**  
12 **DELAY OR SUSPENSION OF LNP IMPLEMENTATION MERIT CONSIDERATION IN THIS**  
13 **PROCEEDING?**

14 A. Yes. The decision by many other independent telcos to prepare for implementation  
15 rather than seek a delay or suspension is clear evidence that the implementation of  
16 number portability by the May 24, 2004 deadline was achievable and implementation  
17 with six months notice is achievable. Similarly situated rural LECs are  
18 implementing LNP and routing traffic properly to terminating carriers. My staff and I  
19 have been in contact with many LECs in our serving area to work through questions  
20 or concerns in support of their specific implementation efforts.

21 **Q. HAVE OTHER STATE COMMISSIONS RULED ON LEC LNP SUSPENSION REQUESTS?**

22 A. Yes. I am not familiar with all state commissions, but I do understand that the  
23 Pennsylvania Commission concluded that “rural residents have as much right to  
24 competitive choices as their more numerous urban counterparts” and that as a result,

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<sup>14</sup> In the Matter of Telephone Number Portability, Small LEC Petitions for relief of the intermodal porting deadline of November 24, 2004, CC Docket No. 95-116, FCC 04-12 at 12 (rel. January 16, 2004) (See Exhibit RW-3).

1 rural LEC suspension Petitioners “must present competent evidence that such relief is  
2 necessary under Section 251(f)(2).”<sup>15</sup> In response to requests for suspension of LNP  
3 obligations, several state commissions have rejected rural LEC technical and/or  
4 financial arguments in support of their LNP suspension requests.<sup>16</sup> Notably, the  
5 Michigan Public Service Commission denied LNP suspension to two small rural  
6 LECs stating:

7 “The Commission is unconvinced that the burdens will  
8 disproportionately affect the Petitioners as compared with other  
9 carriers. Indeed, the Petitioners have been on notice since 1996 to  
10 prepare for implementation of LNP and replacement of new switches  
11 should have been completed prior to the implementation date .... Any  
12 deferment of the FCC’s number portability requirements beyond that  
13 time [May 24, 2004] would be anti-competitive and anti-consumer.”<sup>17</sup>

14 **Q. HAVE OTHER STATES DEALT WITH LNP SUSPENSION PETITIONS IN A DIFFERENT**  
15 **MANNER?**

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<sup>15</sup> *Petition of Rural and Small Incumbent Local Exchange Carriers for Commission Action Pursuant to Section 251(f)(2) and 253(b) of the Telecommunications Act of 1996*, Docket Nos. P-00971177 and P-00971188, 1997 Pa. PUC LEXIS 146 at ¶44 (Pennsylvania Public Utility Commission, July 10, 1997).

<sup>16</sup> *See, e.g., Petition by the Alliance of North Carolina Independent Telephone Companies for Limited Modification of the Requirement to Provide Number Portability, Order Dismissing Petition Without Prejudice*, Docket No. P-100, Sub 133r (North Carolina Utilities Comm’n, Oct. 7, 2003)(LNP suspension petition dismissed for failure to meet burden of proof); *Iowa Telecommunications Services*, Docket No. SPU-02-18 (SPU-02-19), 2003 Iowa PUC LEXIS 141 (Iowa Utilities Board, April 15, 2003)(LNP suspension petition denied for failure to meet burden of proof); *In the matter of the application of Waldron Telephone Company and Ogden Telephone Company for temporary suspension of wireline to wireless number portability obligations pursuant to §251(f)(2) of the federal Telecommunications Act of 1996, as amended*. Opinion and Order in Case Nos. U-13956 and U-13958 (Michigan Public Service Commission, February 12, 2004).

<sup>17</sup> *In the matter of the application of Waldron Telephone Company and Ogden Telephone Company for temporary suspension of wireline to wireless number portability obligations pursuant to 251(j)(2) of the Federal Telecommunications Act of 1996 as amended*. Opinion and Order in Case Nos. U-13956 and U-13958 (Michigan Public Service Commission, February 12, 2004).

1 A. Yes. Texas is a good example. The Texas Commission Staff was actively involved  
2 in negotiating with rural telephone companies to shorten or withdraw their suspension  
3 requests. The Staff was successful in resolving all ten original petitions<sup>18</sup> but not  
4 before they submitted the following testimony in the docket:

5 "I recommend the denial of the petitions of Valor and KTC to suspend  
6 implementation until March 15, 2005 of the FCC's Intermodal Order ...  
7 I have determined that the Companies have failed to provide sufficient  
8 information and demonstrate the stated factors pursuant to FTA  
9 §251(f)(2) to justify an extension ... The Companies further failed to  
10 demonstrate that implementation of intermodal LNP prior to March 15,  
11 2005 would be inconsistent with the public interest, convenience and  
12 necessity of Texas customers. I further conclude that the Companies  
13 have failed to take steps to comply with the Intermodal Order in a timely  
14 manner after receiving bona fide requests (BFR) for intermodal porting.  
15 As a consequence I recommend that the Companies be held accountable  
16 for non-compliance with FTA § 251(f)(2), if they are not LNP capable  
17 by May 24, 2004. Thus, the Companies would be subject to applicable  
18 FCC enforcement proceedings and/or state commission enforcement  
19 action, if applicable.<sup>19</sup>

20 **III. DOES CASS COUNTY'S OR CRAW-KAN'S PETITION AND TESTIMONY**  
21 **MEET THE STANDARDS FOR SUSPENSION OF NUMBER PORTABILITY**  
22 **OBLIGATIONS?**

23 **Q. HAVE CASS COUNTY AND CRAW-KAN IDENTIFIED ANY "TECHNICALLY**  
24 **INFEASIBLE" ROADBLOCKS TO THE IMPLEMENTATION OF NUMBER PORTABILITY?**

25 No. The Petitioners have said that call routing and rating issues create obstacles and  
26 burdens relative to the implementation of LNP but they do not claim that these  
27 obstacles are insurmountable and LNP is technically infeasible. In fact, the obstacles

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<sup>18</sup> See Texas SOAH Docket No 473-04-3034 PUC Docket 29278 "Petition of Wes-Tex Telephone Cooperative, Inc. et al, for Suspension of Wireless Number Portability Implementation."

<sup>19</sup> Prefiled Direct Testimony of Stephen Mendoza, Telecommunications Division, Public Utility Commission of Texas in the matter of *Petition of Wes-Tex Telephone Cooperative, Inc. et al, for Suspension of Wireless Number Portability Implementation* SOAH Docket No. 473-04-3034, PUC Docket No. 29278, April 30, 2004. p.4, ll. 5-21 and p.5, ll. 1-8.

1 of traffic rating and routing in an LNP environment are common to all carriers that  
2 have implemented LNP and are not unique to these Petitioners.

3 **Q. HAVE CASS COUNTY AND CRAW-KAN IDENTIFIED THE IMPLEMENTATION OF LNP**  
4 **AS IMPOSING A REQUIREMENT THAT IS “UNDULY ECONOMICALLY BURDENSOME”?**

5 A. No. The Petitioners have said that there may be new costs associated with routing  
6 traffic to ported numbers and there may be costs associated with the negotiation of  
7 agreements with carriers that provide routing options. Although the Petitioners claim  
8 that these costs create an undue economic burden on their companies, no viable  
9 evidence is provided by either Cass County or Craw-Kan of the detailed costs of  
10 implementing LNP or their ability to afford those implementation and operational  
11 costs.

12 **Q. HAVE CASS COUNTY AND CRAW-KAN IDENTIFIED A “SIGNIFICANT ADVERSE**  
13 **IMPACT ON USERS OF TELECOMMUNICATIONS SERVICES GENERALLY”?**

14 A. No. Cass County and Craw-Kan have not provided any evidence as to what the  
15 potential adverse impact might be on any of their customers if LNP is implemented.  
16 They have not identified whether or not they will attempt to recoup LNP costs  
17 through an end user charge; let alone how much such a charge would be. Further, no  
18 comparison has been made as to how any potential costs to end users are offset by the  
19 favorable service and price impacts generally associated with the advent of local  
20 competition.

21 **Q. HAVE CASS COUNTY AND CRAW-KAN FAILED TO MEET EVEN ONE OF THE THREE**  
22 **CRITERIA REQUIRED FOR THE COMMISSION TO GRANT A SUSPENSION OF LNP**  
23 **OBLIGATIONS?**

24 A. Yes. The Commission has no basis on which to grant any suspension of LNP  
25 obligations since the Petitioners have failed to meet the burden of proof established in  
26 Section 251(f)(2)(A) of the Act.

1 **IV. ARE THERE ANY REAL OPERATIONAL ROADBLOCKS TO THE**  
2 **PETITIONERS' IMPLEMENTATION OF NUMBER PORTABILITY AS**  
3 **REQUIRED BY FCC RULES?**

4 **Q. WHAT HAVE CASS COUNTY AND CRAW-KAN IDENTIFIED AS THE PRIMARY**  
5 **ROADBLOCK TO THE IMPLEMENTATION OF NUMBER PORTABILITY?**

6 A. In their Petitions and through the direct testimony of Mr. Schoonmaker, Cass County  
7 and Craw-Kan have identified their primary operational concern to be the routing of  
8 traffic to numbers that have been ported to a wireless carrier with which they have no  
9 direct connection.

10 **Q. DOES THIS REPRESENT A REAL BARRIER TO COMPLETING IMPLEMENTATION OF**  
11 **NUMBER PORTABILITY OBLIGATIONS?**

12 A. No. The Petitioners have introduced this routing challenge, which is faced by all  
13 carriers (wireline and wireless, urban and rural) implementing number portability.  
14 Western Wireless believes there are economical ways to accomplish this routing.

15 **Q. WHY ARE THESE PETITIONERS RAISING A CONCERN REGARDING INTERMODAL**  
16 **PORTING AND THEIR LOCAL ROUTING OBLIGATIONS?**

17 A. Under some circumstances, when there is no physical interconnection between a LEC  
18 and a wireless carrier, the LEC will need to route a call to the carrier that services the  
19 ported number via a third party 'transit' provider. For example, this routing could use  
20 common shared facilities to the LATA tandem as a means to deliver this traffic to the  
21 appropriate terminating carrier. This is no different than the manner in which  
22 wireless carriers terminate calls to many LEC exchanges in Missouri today.

23 **Q. WHAT WOULD HAPPEN IF THIS TYPE OF ROUTING OF LOCAL CALLS DID NOT OCCUR?**

24 A. A call that was local before a number ported would either not be completed or would  
25 be required to be dialed as a toll call after the number was ported. Imagine a scenario

1 where your neighbor had to dial toll to reach your telephone number just because you  
2 changed your service provider. It would make no sense.

3 **Q. IS THIS TYPE OF SEPARATE RATING AND ROUTING OF TRAFFIC A NEW PRACTICE?**

4 A. No. This practice is permitted under industry guidelines associated with the  
5 assignment of telephone numbers by the North American Numbering Plan  
6 Administrator (NANPA)<sup>20</sup>. In fact, Western Wireless has several implementations of  
7 this throughout its service area.

8 **Q. ARE THERE OTHER WAYS TO IMPLEMENT THE ROUTING OF TRAFFIC TO PORTED**  
9 **NUMBERS?**

10 A. Yes, there are several ways to achieve this. There are other third party carriers that  
11 can provide transit routing in addition to SBC, the petitioners may be able to route via  
12 their existing toll connections (absorbing the IXC charges), and there is always the  
13 possibility that the LEC could establish a direct connection with a wireless carrier.

14 **Q. THE PETITIONERS HAVE PROPOSED THAT THE CARRIER TERMINATING TRAFFIC TO**  
15 **PORTED NUMBERS SHOULD BE REQUIRED TO ARRANGE AND PAY FOR TRANSPORT**  
16 **FACILITIES (SCHOONMAKER DIRECT, P.26, LL. 17-20). WHAT IS WRONG WITH THAT**  
17 **PROPOSAL?**

18 A. The notion that a carrier terminating local calls is obligated to arrange and pay for the  
19 transport facilities to deliver calls to its network is inconsistent with industry  
20 practices, inconsistent with the routing obligations of number portability compliance,  
21 and inconsistent with how these telcos expect local traffic to be delivered for  
22 termination on their networks. It is common industry practice that the carrier network  
23 originating a local call is responsible for delivering that call to the terminating carrier.

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<sup>20</sup> The Central Office Code (NXX) Administration Guidelines (COCAG), published by the Alliance for Telecommunications Industry Solutions on behalf of the Industry Number Committee, permit a carrier to receive a rate center number assignment and designate a routing point for calls to those numbers that are outside the rate center to which they are assigned.

1 Consistent with that expectation, it is a requirement of an LNP capable carrier that, in  
2 addition to being able to port numbers, they must be able to properly route calls to the  
3 ported number. The FCC made this clear in the Intermodal Order and, again, in the  
4 CenturyTel Notice of Apparent Forfeiture.<sup>21</sup> Further, it is the expectation of Craw-  
5 Kan and Cass County that local calls originating on a wireless carrier's network and  
6 terminating to a Craw-Kan or a Cass County exchange be delivered by the wireless  
7 carrier to a Craw-Kan or Cass County point of interconnection. Today, even without  
8 number porting in-place, wireless carriers absorb the cost of delivering local traffic to  
9 these telcos. Western Wireless believes that LECs should have a reciprocal  
10 obligation to absorb the cost to route local calls to Western's network.

11 **Q. WHAT IS THE IMPACT ON THE PETITIONERS TO RESOLVE THIS TRANSPORT ROUTING**  
12 **ISSUE?**

13 A. In the Intermodal Porting order issued by the FCC in November 2004, the FCC  
14 addressed the obligation to route traffic to ported numbers, but the FCC did not  
15 address the issue of ultimate responsibility for the costs involved in routing traffic to  
16 ported numbers.<sup>22</sup> The Petitioners take the position that this routing, in the absence  
17 of a direct point of interconnection would be "economically burdensome".

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<sup>21</sup> In the Matter of CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc. Apparent Liability for Forfeiture, DA 04-1304, Released May 13, 2004, ¶ 4.

<sup>22</sup> In the Matter of Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, CC Docket No. 95-116, FCC 03-284 ¶¶ 39-40 (rel. November 10, 2003) "*Intermodal Porting Order*" – attached as Exhibit 1.

1 **Q. HAS WESTERN WIRELESS PROPOSED A MEANS TO RESOLVE THIS ISSUE PENDING AN**  
2 **FCC DECISION ON THE MATTER?**

3 A. Yes. In the “On-the-record” presentation hosted by the Commission on May 5, 2004,  
4 Western Wireless extended the offer to reimburse the Petitioners for indirect transit  
5 costs associated with the routing of calls to numbers ported from their networks to  
6 Western Wireless. The offer allowed for reimbursement at a rate equivalent to what  
7 Western Wireless pays to SBC for similar transit routing from Western’s network to  
8 the telcos’ networks. The offer was extended as an interim solution, until such time  
9 as the FCC issued an order on the matter in the Sprint petition for declaratory ruling.<sup>23</sup>  
10 Further, the offer was extended with the expectation and contingent upon  
11 Cass County and Craw-Kan’s timely implementation of LNP.

12 **Q. WHAT IMPACT WOULD WESTERN’S OFFER HAVE ON PETITIONERS’ COST CLAIMS?**

13 A. The offer should be sufficient to cover costs of routing traffic to numbers ported to  
14 Western Wireless assuming the Petitioners use the most economical means to route  
15 that traffic. Petitioner claims of a ‘very costly’ negotiated arrangement with a third  
16 party carrier are unwarranted given the number of interconnection arrangements in  
17 Missouri that could be adopted for transit purposes.

18 **Q. DO CASS COUNTY TELEPHONE AND CRAW-KAN TELEPHONE HAVE LNP ROUTING**  
19 **OBLIGATIONS THAT TRANSCEND ANY SUSPENSION OF INTERMODAL LNP**  
20 **IMPLEMENTATION?**

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<sup>23</sup> See, In the Matter of Sprint Petition for Declaratory Ruling, Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired and to Honor Routing and Rating Points Designated by Interconnecting Carriers, Sprint Petition for Declaratory Ruling, CC Docket No. 01-92 (filed July 18, 2002).

1 A. Yes they do. In a Notice of Apparent Liability for Forfeiture, released by the Chief,  
2 Enforcement Bureau of the FCC, the FCC maintains that:

3           Regardless of the status of a carrier's obligations to provide number  
4           portability, all carriers have the duty to route calls to ported numbers.  
5           In other words, carriers must ensure that their call routing procedures  
6           do not result in dropped calls to ported numbers."<sup>24</sup>

7           Granting a delay to these Petitioners would seem to exacerbate any problem they may  
8           have with respect to routing obligations. Cass County and Craw-Kan both provide  
9           service in local calling areas that are common to another local exchange carrier's rate  
10          center that has already implemented number portability. In the event a number is  
11          ported in that rate center (wireless-to-wireless or wireline-to-wireless), the FCC has  
12          made it clear that a carrier is still obligated to route calls to ported numbers.

13          **V. DO THE PETITIONERS MAKE A VALID CLAIM THAT LNP IS NOT IN**  
14          **THE PUBLIC INTEREST IN THEIR SERVICE AREAS?**

15          **Q. DOES THE PETITIONERS' CLAIM OF LACK OF DEMAND FOR NUMBER PORTABILITY**  
16          **RING TRUE?**

17 A. No. The fact is, number portability has proven to be an enabler of competition  
18          wherever it has been implemented. That is the case here in Missouri. SBC has  
19          experienced a substantial loss of customers to competitors since the advent of number  
20          portability. There is, however, a difference in what the FCC ordered to happen on  
21          May 24, 2004. Instead of just adding more competitors to Missouri's urban markets,  
22          intermodal LNP enables wireless carriers to compete effectively for customers in  
23          areas that have not previously been exposed to competition. Cass County has claimed

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<sup>24</sup> In the Matter of CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc. Apparent Liability for Forfeiture, DA 04-1304, Released May 13, 2004, ¶ 4.

1 an estimated port volume of 24 customers over a one year period and Craw-Kan  
2 expects 8 ports during the first year of LNP (Schoonmaker Direct P.22 lls.16-17).  
3 Western Wireless believes Cass County is more likely to average an intermodal line  
4 loss of 240 ports per year over the next five years and Craw-Kan to experience an  
5 intermodal line loss of port volume of 80 ports per year.

6 **Q. IS THERE ANY REASON WHY THE COMPETITIVE CHOICE, ENABLED BY NUMBER**  
7 **PORTABILITY SHOULD BE DELAYED FOR THE CUSTOMERS OF CASS COUNTY AND**  
8 **CRAW-KAN?**

9 A. No. Although these rural LECs have sought relief from number portability  
10 requirements through this proceeding, there is no reason why the competitive choice,  
11 enabled by number portability, and already available to most people in Missouri,  
12 should be delayed for their customers.

13 **Q. ARE THERE ANY INDUSTRY PROJECTIONS FOR THE POTENTIAL OF SUBSTITUTION OF**  
14 **WIRELINE SERVICE BY WIRELESS?**

15 A. Yes, many industry watchers are projecting that intermodal number portability will  
16 open the door to increased competition and accelerated substitution of wireless for  
17 wireline services. Here are some excerpts of a Cato Industry report summarizing the  
18 impact of wireless substitution<sup>25</sup>: “Wired Magazine recently reported that roughly  
19 3% of homes have dropped their landlines and 8% are expected to follow suit in the  
20 next five years.” “A more recent study by PriMetrica, Inc. suggested that roughly  
21 half of U.S. households would be willing to dump wireline for cellular ....” “And  
22 now comes the number portability decision, .... ‘I think it will certainly increase the  
23 move toward substituting wireless for wire-line phones,’ notes Rebecca Arbogast, an

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<sup>25</sup> “Number Portability Adds to Wireline Telecom Sector’s Perfect Storm,” Adam Thierer, Director of Telecommunication Studies, Cato Institute, Issue 66, November 20, 2003.

1 analyst with Legg Mason.” Finally, common sense tells us that demand for a service  
2 greatly increases once the service becomes available.

3 **Q. IS WESTERN WIRELESS PROVIDING LNP IN MISSOURI?**

4 A. Yes. We have upgraded our network, implemented new processes, systems, and  
5 hired supporting resources to implement LNP in Missouri. In other words, we have  
6 absorbed the costs of implementing LNP under our FCC obligations. Further, we  
7 believe it is unfair that carriers who we compete with, that are similarly obligated,  
8 would be exempted from their obligations and thereby limit our ability to recoup the  
9 LNP investments we have made by restricting our opportunity to leverage those  
10 investments in a competitive marketplace.

11 **Q. HAVE THE PETITIONERS MET THE PUBLIC INTEREST STANDARD FOR GRANT OF A**  
12 **SUSPENSION OF LNP OBLIGATIONS?**

13 A. No. The public interest would not be served by suspending the Petitioners’ LNP  
14 obligations. Section 251(f)(2) of the Act requires the Commission to determine that  
15 suspension of a carrier’s LNP obligations would be “consistent with the public  
16 interest, convenience, and necessity.”<sup>26</sup> The provision of LNP by LECs is a critical  
17 component of a competitive local telephone market. Rural consumers are  
18 increasingly choosing wireless service for their telecommunications needs and may  
19 choose to port their wireline number to Western Wireless upon the implementation of  
20 number portability as mandated by the Federal Communications Commission. The  
21 FCC has observed that the inability of customers to retain their telephone numbers  
22 when changing local service providers hampers the development of local competition:

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<sup>26</sup> 47 U.S.C. § 251(f)(2)(B).

1 Section 251(b)(2) removes a significant barrier to competition by  
2 ensuring that consumers can change carriers without forfeiting their  
3 existing telephone numbers.<sup>27</sup>

4 The fact is, number portability has proven to be an enabler of competition wherever it  
5 has been implemented. The bona fide request process for local number portability  
6 has led to an opportunity for increased competition in rural Missouri markets (i.e., the  
7 ability of a wireless carrier to compete for service in areas that have not previously  
8 been exposed to competition). The implementation of LNP is intended to serve the  
9 important public interests of improved choice and competition for consumers.

10 **Q. WHAT STANCE HAS THE FCC STAFF TAKEN WITH RESPECT TO PETITIONERS’**  
11 **POSITIONS?**

12 A. Speaking at a forum on LNP issues, Wireless Bureau Assistant Chief David Firth said  
13 that the volume of actual number porting would not be the measure of success, but  
14 giving customers the option to port was most important. He indicated that carriers  
15 outside of the 100 largest MSA’s should be testing and preparing for the May 24,  
16 2004 LNP deadline. Responding to questions, Mr. Firth indicated that rating and  
17 routing issues between carriers are not porting issues and are therefore not a valid  
18 reason for refusing to port.<sup>28</sup>

## 19 VI. CONCLUSION

20 **Q. PLEASE SUMMARIZE YOUR TESTIMONY.**

21 Neither Cass County nor Craw-Kan has met their burden of demonstrating any one of  
22 the three criteria by which a state commission may grant a suspension of LNP

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<sup>27</sup> Third LNP Order, 13 FCC Rcd 11701, 11702-04 ¶¶ 3-4 (1998).

<sup>28</sup> See Washington Watch, NECA, March 18, 2004, attached as Exhibit RW-4.

1 obligations. The Petitioners have not claimed that LNP implementation is technically  
2 infeasible and they have not provided sufficient or compelling evidence that  
3 implementation of LNP would cause an undue economic burden on their company or  
4 a significant adverse impact on their customers. Without meeting at least one of the  
5 three threshold criteria, the Commission cannot consider suspension of LNP for these  
6 petitioners. Even so, these Petitioners have not demonstrated that the implementation  
7 of number portability would conflict with the public interest and the competitive  
8 choice guidelines set by the FCC and this Commission.

9 The Commission should deny the Cass County and Craw-Kan petitions, order  
10 these companies to proceed with implementation, and force the Petitioners to face the  
11 consequences of their LNP preparations or lack thereof coincident with the expiration  
12 of Cass County's interim suspension on October 1 and, for Craw-Kan consistent with  
13 the obligations arising from their receipt of a bona fide request.

14 **Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

15 A. Yes, it does.