

**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 FCC's Requirement to Implement Number Portability)
Case No. TO-2004-0504

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

STATEMENTS OF POSITION OF WESTERN WIRELESS

COMES NOW WWC License, LLC ("Western Wireless") d/b/a Cellular One, by and through counsel and pursuant to the Procedural Schedules adopted by the Commission on June 9, 2004, and submits the following Statements of Position in these cases.

ISSUES

ISSUE 1. Should the Commission grant a suspension and/or modification of the intermodal porting requirements?

Western Wireless Position: No. The Commission should deny the Petitions for suspension and modification of the FCC's Local Number Portability ("intermodal porting") requirements in these cases. Petitioners have failed to meet their statutory burden of proof for such suspension or modification under 47 U.S.C. 251 (f) (2) of the Communications Act of 1934 as amended by the Telecommunications Act of 1996.

Western Wireless Witness: Ron Williams Rebuttal of July 2, 2004, pp. 2-11; Surrebuttal of July 16, 2004, pp. 1-10.

ISSUE 1.a. Does the implementation of LNP by Petitioners impose a requirement that creates a significant adverse economic impact on users of telecommunication services generally?

Western Wireless Position: Petitioners have presented no competent and substantial evidence in this case from which the Commission could find that the implementation of

LNP by Petitioners would impose a requirement that “creates a significant adverse economic impact on users of telecommunication services generally.” Both Cass County and Craw-Kan are “LNP capable,” and neither has presented any cost evidence in this case, except for broad and unsupported estimates of the costs of a hypothetical negotiation process and arbitration with SBC. There is no evidence of significant adverse economic impact on users of telecommunications services generally.

Western Wireless Witness: Ron Williams Rebuttal of July 2, 2004, pp. 12; Surrebuttal of July 16, 2004, pp. 2-6.

ISSUE 1.b. Does the implementation of LNP by Petitioners impose a requirement that is unduly economically burdensome?

Western Wireless Position: No. Petitioners have presented no competent and substantial evidence in this case from which the Commission could find that the implementation of LNP by Petitioners would impose a requirement that is “unduly economically burdensome.” Both Cass County and Craw-Kan are “LNP capable,” and neither has presented any cost evidence in this case, except for broad and unsupported estimates of the costs of a hypothetical negotiation process and arbitration with SBC. There is no evidence of undue economic burden.

Western Wireless Witness: Ron Williams Rebuttal of July 2, 2004, pp. 12-17; Surrebuttal of July 16, 2004, pp. 2-6.

ISSUE 1.c. Does the implementation of LNP by Petitioners impose a requirement that is technically infeasible?

Western Wireless Position: No. Petitioners’ existing switches can accommodate LNP. Further, alleged obstacles to LNP provision of an administrative or regulatory nature or because of alleged arguments about who is to bear costs are not issues of “technical infeasibility.”

Western Wireless Witness: Ron Williams Rebuttal of July 2, 2004, pp. 11-12; Surrebuttal of July 16, 2004, pp. 1-2, 6.

ISSUE 1.d. If a., b. and/or c. are true, is a suspension or modification of LNP obligations consistent with the public interest, convenience, and necessity?

Western Wireless Position: Since none of the three standards is met, this question is moot. Further, Western Wireless submits that denying the customers of Cass County and Craw-Kan the benefits of competitive telecommunications choices in their service territories in rural Missouri would be inconsistent with the public interest, convenience and necessity, with the legislative policies of the State of Missouri which promote

competition in telecommunications markets, with the Federal Telecommunications Act of 1996 and with Orders of the Federal Communications Commission.

Western Wireless Witness: Ron Williams Rebuttal of July 2, 2004, pp. 17-20; Surrebuttal of July 16, 2004, pp. 3-5, 8-9.

ISSUE 2. If the Commission should grant a suspension and/or modification, what reasons support that suspension and/or modification?

Western Wireless Position: No suspension or modification should be granted.

Western Wireless Witness: Ron Williams Rebuttal of July 2, 2004, pp. 3-21; Surrebuttal of July 16, 2004, pp. 1-9.

ISSUE 3. If the Commission should grant a suspension, how long should the suspension last?

Western Wireless Position: Cass County Telephone Company should be ordered to provide LNP to Western Wireless coincident with the expiration of its interim suspension on October 1. Craw-Kan should be ordered to provide LNP to Western Wireless within six months of the submission by Western Wireless of a Bona Fide Request to KLM, or by December 28, 2004.

Western Wireless Witness: Ron Williams Rebuttal of July 2, 2004, pp. 21; Surrebuttal of July 16, 2004, p. 9.

ISSUE 4. If the Commission should grant a modification, what are the specific conditions of the modification?

Western Wireless Position: There should be no “modification” granted. The only “modification” that appears to be at issue, though never specifically requested in the pleadings in this case, is a “call intercept” that would allow Cass County and Craw-Kan to give customers calling ported numbers a message stating that the call will be a toll call until the wireless carrier does something different. Misrouting calls to ported numbers as toll calls is in clear violation of FCC Order.¹ Imposition of such call intercept messages would also be clearly inconsistent with the Telecom Act’s definition of LNP: “The ability of users of telecommunications services to retain, at the same location, existing

¹ 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 ¶28 (rel. November 10, 2003) “*Intermodal Porting Order*” ¶ 27. (Attached to Rebuttal Testimony of Ron Williams (July 2, 2004) as Exhibit RW-1.

telecommunications numbers *without impairment of quality, reliability, or convenience* when switching from one telecommunications carrier to another.”²

Western Wireless Witness: Ron Williams Rebuttal of July 2, 2004, pp. 3-21; Surrebuttal of July 16, 2004, pp. 6-8.

WHEREFORE, Western Wireless submits the foregoing Statements of Position in response to the Commission’s Order directing the submission of same in these cases.

Respectfully submitted,

/s/ William D. Steinmeier

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**ATTORNEYS FOR WWC LICENSE
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CELLULAR ONE**

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 this 19th day of July 2004.

/s/ William D. Steinmeier

² 47 U.S.C. § 153(30)