

LAW OFFICES  
**BRYDON, SWEARENGEN & ENGLAND**  
PROFESSIONAL CORPORATION

DAVID V.G. BRYDON  
JAMES C. SWEARENGEN  
WILLIAM R. ENGLAND, III  
JOHNNY K. RICHARDSON  
GARY W. DUFFY  
PAUL A. BOUDREAU  
SONDRA B. MORGAN  
CHARLES E. SMARR

312 EAST CAPITOL AVENUE  
P.O. BOX 456  
JEFFERSON CITY, MISSOURI 65102-0456  
TELEPHONE (573) 635-7166  
FACSIMILE (573) 635-0427

DEAN L. COOPER  
MARK G. ANDERSON  
GREGORY C. MITCHELL  
BRIAN T. MCCARTNEY  
DIANA C. FARR  
JANET E. WHEELER

OF COUNSEL  
RICHARD T. CIOTTON

January 30, 2004

Mr. Dale Hardy Roberts, Secretary  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, Missouri 65102

**FILED**

**JAN 30 2004**

**Missouri Public  
Service Commission**

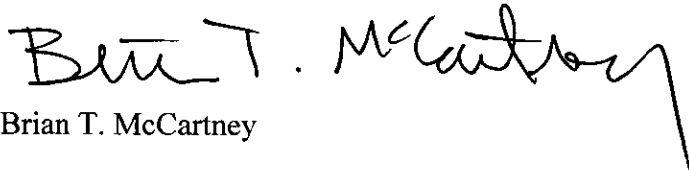
**Re: Case No. IO-2004-0231**

Dear Mr. Roberts:

Enclosed for filing, please find the original and eight copies of Petitioners' Response to Second Temporary Suspension.

Please bring this filing to the attention of the appropriate Commission personnel. A copy of this filing will be provided to parties of record. If there are any questions, please direct them to me at the above number. I thank you in advance for your cooperation in this matter.

Sincerely,



Brian T. McCartney

BTM/da

Enclosure

cc: Parties of Record

FILED

JAN 30 2004

Missouri Public  
Service Commission

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

Petition for Suspension of the Federal )  
Communications Commission Requirement ) Case No. IO-2004-0231  
to Implement Number Portability )

**Petitioners' Response to Second Temporary Suspension**

COME NOW Cass County Telephone Company (Cass County), Citizens Telephone Company of Higginsville, Missouri Inc. (Citizens), Green Hills Telephone Corporation (Green Hills), KLM Telephone Company (KLM), and Lathrop Telephone Company (Lathrop), (hereinafter "Petitioners") and for their Supplemental Response state to the Missouri Public Service Commission's (Commission) as follows:

**SUMMARY**

The Federal Communications Commission (FCC) January 16, 2004 *Order* granted a limited waiver of its local number portability (LNP) requirements for small local exchange carriers that operate in the top 100 Metropolitan Statistical Areas (MSAs). Specifically, the FCC's *Order* grants "a waiver until May 24, 2004 to comply with the wireline-to-wireless porting requirement." Thus, the FCC has granted the relief that Petitioners requested from the Commission, and Petitioners' request for temporary suspension is moot. However, Petitioners and Staff have both noted that additional suspension beyond May 24, 2004 and an evidentiary hearing may be necessary to address issues related to LNP for small rural companies. Therefore, the Commission may choose to either: (1) hold this case open to monitor issues related to LNP for small rural carriers; or (2) simply close this case.

## DISCUSSION

1. **The FCC's Waiver Order.** On January 16, 2004, the FCC released an Order granting a limited waiver of the wireline-to-wireless porting requirement for certain small local exchange carriers operating in the top 100 MSAs.<sup>1</sup> This waiver applies to carriers that have fewer than two percent of the nation's subscriber lines in the aggregate nationwide and "that had not received a request for local number porting from either a wireline carrier prior to May 24, 2003, or a wireless carrier that has a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned (Covered Carriers)." All Petitioners meet this standard:

- a. **Two Percent Carriers.** All Petitioners have fewer than two percent of the nation's subscriber lines in the aggregate nationwide. As of December 2002, there were approximately 188 million local telephone lines in service nationwide.<sup>2</sup> As set forth in the initial Petition for Suspension, Petitioners' approximate number of access lines are as follows:

(1) Cass County	8,000
(2) Citizens	4,431
(3) Green Hills	3,872
(4) KLM	1,675
(5) Lathrop	1,500

Thus, all Petitioners meet the two percent standard.

---

<sup>1</sup> *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, Order, rel. Jan. 16, 2004.

<sup>2</sup> *Federal Communications Commission Releases Study on Telephone Trends*, FCC News Release, Aug. 7, 2003.

- b. **No requests for wireline local porting prior to May 24, 2003.** None of Petitioners have received a request for local porting from a wireline carrier prior to May 24, 2003.
- c. **No requests for wireless local porting by a wireless carrier with a point of interconnection or numbering resources in Petitioner's rate centers.** None of Petitioners have received a request for local porting from a wireless carrier prior to May 24, 2003 with a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned.

Accordingly, Petitioners are "covered carriers" under the FCC's *Order*, and the FCC's waiver until May 24, 2004 applies to Petitioners.

2. **Petitioners' initial request is moot.** The FCC has already granted the relief that Petitioners requested from this Commission, so Petitioners' request for a temporary suspension from the Commission is now moot. Thus, it is not necessary for the Commission to issue an order on the merits in this case.

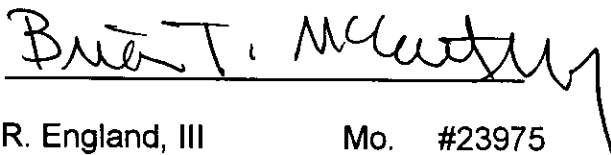
3. **The Commission may want to monitor LNP issues.** There are a number of unresolved issues related to wireline-to-wireless LNP for small rural carriers, and the Commission's Staff has noted concerns that the issues raised by Petitioners may not be resolved by May 24, 2004. In fact, Staff cautioned the Commission that Petitioners may have to seek additional relief in the near future, including an evidentiary hearing to resolve any outstanding cost recovery or implementation issues. Petitioners concur with Staff's concerns, and Petitioners remain willing to participate in

an evidentiary hearing to address implementation and cost recovery issues. Therefore, the Commission may want to keep this case open to monitor developments involving wireline-to-wireless LNP. Alternatively, the Commission may choose to simply close this case and address further LNP issues in a separate case.

### CONCLUSION

In light of the FCC's recent *Order*, Petitioners' request for temporary suspension in this case is now moot. Accordingly, the Commission may choose to either: (1) keep this case open to monitor developments involving wireline-to-wireless LNP; or (2) close this case and examine any further issues related to wireline-to-wireless LNP in a new case.

Respectfully submitted,

By 

W.R. England, III                      Mo. #23975  
Brian T. McCartney                  Mo. #47788  
BRYDON, SWEARENGEN & ENGLAND P.C.  
312 East Capitol Avenue, P.O. Box 456  
Jefferson City, MO 65102-0456  
[trip@brydonlaw.com](mailto:trip@brydonlaw.com)  
[bmccartney@brydonlaw.com](mailto:bmccartney@brydonlaw.com)  
(573) 635-7166  
(573) 634-7431 (FAX)

Attorneys for the Petitioners

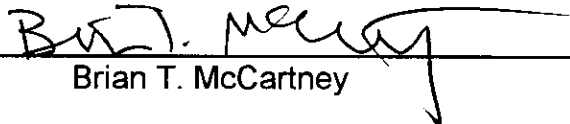
## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 30<sup>th</sup> day of January, 2004, to the following parties:

General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102

Michael F. Dandino  
Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, Missouri 65102

Lisa Creighton-Hendricks  
Sprint Spectrum, L.P.  
6450 Sprint Parkway, Bldg. 14  
Mail Stop: KSOPHN0212-2A253  
Overland Park, KS 66251

  
\_\_\_\_\_  
Brian T. McCartney