

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. CIOTTONE

January 16, 2004

FILED³

JAN 16 2004

**Missouri Public
Service Commission**

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

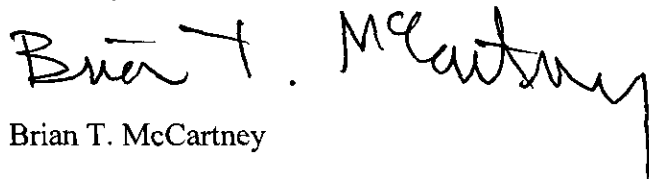
Re: Case No. IO-2004-0231

Dear Mr. Roberts:

Enclosed for filing, please find the original and eight copies of Petitioners' Response to Order Directing Filing.

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

FILED³

JAN 16 2004

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

**Missouri Public
Service Commission**

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

Petitioners' Response to Order Directing Filing

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 Response to the Missouri Public Service Commission's (Commission) *Order Directing Filing*, state to the Commission as follows:

SUMMARY

Petitioners concur with Staff's recommendation and the attached memorandum. Petitioners also concur with Staff's statement that additional suspension may become necessary in order for the Commission to examine the issues surrounding local number portability (LNP) for small rural carriers that were left unresolved by the FCC's November 10, 2003 *Memorandum Opinion*. Finally, although no parties have objected to Petitioners' request for temporary suspension, there appears to be a slight difference between the date proposed by Petitioners (May 24, 2004) and the date discussed by Sprint PCS (May 10, 2004). Because May 24, 2004 is the deadline imposed by the Federal Communications Commission (FCC) for all carriers outside the largest 100 MSAs, Petitioners believe that the May 24th date is the most appropriate for a temporary suspension in this case.

DISCUSSION

1. **Staff's Recommendation.** On January 7, 2004, the Commission's Staff filed its Supplemental Recommendation in this case. Staff's Recommendation suggests that Petitioners have submitted sufficient documentation to grant suspension under 47 U.S.C. § 251. Staff's Recommendation addressed the statutory standard for suspension, and the memorandum attached to Staff's Recommendation addressed the adverse economic impact on users of telecommunications, the undue economic burden on Petitioners, technical infeasibility, and the public interest. Petitioners concur with Staff's Recommendation and the attached memorandum.

2. **Additional suspension.** Staff's memorandum notes concerns that the issues raised by Petitioners will not be resolved by May 24, 2004, and Staff cautions the Commission that Petitioners may have to seek additional relief in the near future. Staff indicates that if further action is necessary, then an evidentiary hearing will be needed to resolve any outstanding cost recovery or implementation issues. Petitioners concur with Staff's concerns, and Petitioners are willing to participate in an evidentiary hearing to address implementation and cost recovery issues.

3. **Petition for Temporary Suspension is Unopposed.** No party has opposed the request for a temporary suspension. *See Office of the Public Counsel's Statement of No Objection to Petition*, filed Nov. 20, 2003; *Sprint Application to Intervene and Response to Petition*, filed Nov. 20, 2003; *Staff Supplemental Recommendation*, filed Jan. 7, 2004

4. **May 24, 2004 suspension date.** The response filed by Sprint PCS does not object to Petitioners' request for a temporary suspension. However, there appears to be a slight difference between the date proposed by Petitioners (May 24, 2004) and the date discussed by Sprint PCS (May 10, 2004). Petitioners seek temporary suspension until May 24, 2004 because that is the deadline imposed by the FCC for carriers outside the top 100 MSAs:

In addition we note that wireless carriers outside the top 100 MSAs are not required to provide LNP prior to May 24, 2004, and accordingly are unlikely to seek to port numbers from wireline carriers prior to that date. **Therefore for wireline carriers operating in areas outside of the 100 largest MSAs, we hereby waive, until May 24, 2004, the requirement that these carriers port numbers to wireless carriers that do not have a point of interconnection or numbering resources in the rate center where the customer's wireline number is provisioned.**

In the Matter of Telephone Number Portability, CC Docket No. 95-116, *Memorandum Opinion and Order*, rel. Nov. 10, 2003, ¶29 (emphasis added). Therefore, the May 24, 2004 date is consistent with the date ordered by the FCC for other small rural carriers.

CONCLUSION

Based on the documentation filed previously by Petitioners and the information presented in this pleading, the Commission should grant Petitioners' request for a temporary suspension of the FCC's wireline-to-wireless LNP obligations until May 24, 2004.

Respectfully submitted,

By Brian T. McCartney

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
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 16th 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
Brian T. McCartney