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July 2, 2004

Mr. Dale Hardy Roberts, Secretary
Missouri Public Service Commission
P. O. Box 360
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FILED

JUL 02 2004

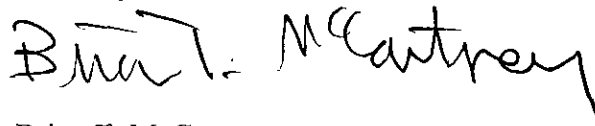
Re: Petitioners' Statement of Position
- LNP Case

**Missouri Public
Service Commission**

Dear Mr. Roberts:

Enclosed for filing in the above-referenced matter, please find the original and eight copies of Petitioners' Statement of Position. A copy of the attached is being provided to all parties of record. If you have any questions regarding this matter, you may contact me at the above number. Otherwise, I thank you in advance for your attention to and cooperation in this matter.

Sincerely,



Brian T. McCartney

BTM/da
Enclosures
cc: Parties of Record

FILED

JUL 02 2004

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

**Missouri Public
Service Commission**

In the Matter of the Petition for Green)
Hills Telephone Corporation for)
Suspension of the FCC's Requirement) Case No. TO-2004-0428
to Implement Number Portability)

In the Matter of the Petition of Rock Port)
Telephone Company for Suspension)
and Modification of the FCC's) Case No. TO-2004-0439
Requirement to Implement Number)
Portability)

In the Matter of the Petition of Steelville)
Telephone Exchange, Inc. for)
Suspension and Modification of the) Case No. TO-2004-0454
FCC's Requirement to Implement)
Number Portability)

In the Matter of the Petition of Grand)
River Mutual Telephone Corporation for)
Suspension and Modification of the) Case No. TO-2004-0456
FCC's Requirement to Implement)
Number Portability)

In the Matter of the Petition of Lathrop)
Telephone Company for Suspension)
and Modification of the FCC's) Case No. TO-2004-0457
Requirement to Implement Number)
Portability)

In the matter of the Petition of Mark)
Twain Rural Telephone Company for)
Suspension and Modification of the) Case No. TO-2004-0458
FCC's Requirement to Implement)
Number Portability)

In the Matter of the Petition of Iamo)
Telephone Company for Suspension)
and Modification of the FCC's) Case No. TO-2004-0459
Requirement to Implement Number)
Portability)

In the Matter of the Petition of Ellington)
Telephone Company for Suspension)
and Modification of the FCC's) Case No. TO-2004-0480
Requirement to Implement Number)
Portability)

In the Matter of the Petition of BPS)
Telephone Company for Suspension)
and Modification of the FCC's) Case No. TO-2004-0484
Requirement to Implement Number)
Portability)

In the Matter of the Petition of Oregon)
Farmers Mutual Telephone Company)
for Suspension and Modification of the) Case No. TO-2004-0526
FCC's Requirement to Implement)
Number Portability)

PETITIONERS' STATEMENT OF POSITION

COME NOW the Petitioners in the above-captioned matters and for their
Statement of Position, state to the Missouri Public Service Commission as follows:

I. POSITIONS

A. UNCONTESTED ISSUE

The parties have filed a unanimous stipulation to address the rating and routing
issues that were not resolved by the FCC. The stipulation recommends that the
Commission grant modification such that if wireline-to-wireless LNP is requested and a
Petitioner has become LNP capable, then the Petitioner will notify the wireless carrier
that it is not the responsibility of the Petitioner to establish facilities and/or arrangements
with third party carriers to transport calls on a local basis outside of its local serving
area. Petitioners respectfully request that the Commission approve the unanimous
stipulation as to result in its entirety.

B. CONTESTED ISSUES

1. Should the Commission grant a suspension of the intermodal porting requirements?

Yes. Federal law allows the Missouri commission to modify or suspend Petitioners' intermodal porting requirements to avoid an adverse economic impact on customers or undue economic burden on the company.¹ If Petitioners are required to implement LNP, it will result in substantial implementation costs and monthly recurring costs which Petitioner may recover in accordance with Federal Communications Commission (FCC) rules from end user customers. Petitioners have provided detailed proprietary information about their estimated implementation and ongoing costs. As explained in more detail below, suspension will serve to avoid adverse economic impacts on customers and/or undue economic burdens on the Petitioners.

(a) Adverse Economic Impact on Customers

Under the FCC's rules, Petitioners may assess a monthly, long-term LNP charge on customers to offset the initial and ongoing costs incurred in providing number portability.² As small rural telephone companies, Petitioners have small customer bases over which to spread these costs. Thus, although the implementation costs and ongoing costs associated with LNP may be similar across Missouri, customers of smaller companies may face substantially higher surcharges. The adverse economic impact on these rural customers outweighs any questionable "benefit" that Petitioners'

¹ 47 U.S.C. §251(f).

² 47 CFR §52.33.

subscribers will receive from wireline-to-wireless LNP, and many other state Commissions have granted similar suspensions.³

For example, the Public Utilities Commission of Ohio recently weighed the benefits against the costs of implementing LNP for a small rural carrier and concluded that LNP costs of over \$1.00 per customer would pose a significant adverse economic impact on customers.⁴ Accordingly, the Ohio Commission granted suspension. Likewise, the Illinois Commerce Commission applied a cost/benefit analysis and found that cost scenarios between \$0.38 and \$0.82 would impose an adverse economic impact on a small company's subscribers.⁵ The Illinois Commission granted a 2½ - year suspension of the LNP requirements. In this case, a two-year suspension will prevent an adverse economic impact on rural Missouri consumers.

(b) Undue Economic Burden on Company

Petitioners provide service in rural areas that are already challenging to serve because of high costs and low population density. In a recent letter to the National Association of Regulatory Utility Commissioners (NARUC), FCC Chairman Michael Powell urged state commissions **"to consider the burdens on small businesses"** when addressing requests for suspension.⁶ The FCC's LNP requirements will place an undue economic burden on Petitioners by forcing Petitioners to divert limited capital resources from the provision of high-quality services in order to implement an expensive

³ State commissions in Alaska, Arkansas, Colorado, Georgia, Idaho, Illinois, Mississippi, Ohio, Oregon, Utah, Washington, Wisconsin, and West Virginia have suspended the FCC's LNP requirements for small rural carriers. Suspension requests are currently pending before over a dozen other state commissions.

⁴ *Application of Vaughnsville Telephone Company to Suspend or Modify its LNP Obligations*, Case No. 03-1972-TP-UNC, 2004 Ohio PUC LEXIS 33, Order, entered Feb. 11, 2004.

⁵ *Harrisonville Telephone Company Petition for Suspension of Modification*, Case No. 03-0731, Order, issued May 11, 2004.

⁶ June 18, 2004 letter from FCC Chairman Michael Powell to the Honorable Stan Wise, President of NARUC. (Emphasis added.)

service that has little (if any) subscriber demand or interest. The high costs of implementing the FCC's wireless LNP policy experiment will have immediate impacts on Petitioners and their rural subscribers. Suspension will avoid an undue economic impact on Petitioners and prevent them from being required to divert limited funds to implement LNP for a small handful of subscribers (if any) rather than applying those funds to implement services and/or upgrade infrastructure that will benefit a large number of subscribers.

(c) Public Interest

Suspension is in the public interest because rural consumers will see little benefit from the LNP surcharges, and there is little or no demand for wireline-to-wireless LNP in rural areas at this time. Suspension will prevent unwanted surcharges, and it will not impede wireless competition in rural areas.

- (i) No benefit** – Implementing wireline-to-wireless LNP will not result in any tangible benefit for Petitioners' rural customers. Instead, the vast majority of these rural customers will bear burdensome and unnecessary costs. Ironically, those few customers (if any) that do port their numbers to a wireless carrier will avoid the LNP surcharges and may leave Petitioners' remaining customers paying even higher charges.
- (ii) No demand** – In Petitioners' rural exchanges, there appears to little or no demand for wireline-to-wireless LNP at this time. It is unlikely that rural service areas will experience any great demand for this service in the near future. This may be due in part to the fact that wireless coverage is limited or non-existent in many of the remote rural areas where Petitioners serve,

but even large incumbent local exchange carriers serving in urban areas are seeing little demand for wireline-to-wireless porting.

(iii) ***Unwanted charges*** – It is unlikely that Petitioners' subscribers would welcome an additional surcharge on their bills, especially one that is being imposed to benefit wireless carriers. The estimated costs and LNP surcharges clearly outweigh any intangible benefit to Petitioners' customers.

(iv) ***Wireless Competition*** – Wireless carriers are already competing in rural areas, and some of Petitioners' customers have both wireline and wireless service. Wireless carriers already have a number of competitive advantages over Petitioners. For example, wireless service areas are much larger than Petitioners' wireline exchanges, and wireless calling scopes are much wider than rural exchange calling scopes. Nothing prevents customers from using both wireline and wireless service or from dropping their wireline service altogether. Competition is already taking place, and the requested suspension will have no impact on the wireless carriers' ability to compete.

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

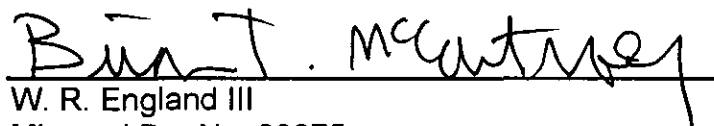
Petitioners have requested a two-year suspension until May 24, 2006. This suspension is warranted to avoid an adverse economic impact on customers and an undue burden on Petitioners. A two-year suspension will also allow Petitioners, Public Counsel, and Staff to gain a better understanding of the level of demand for wireline-to-

wireless LNP and the costs associated with LNP. A two-year suspension period is reasonable, and the Illinois Commerce Commission recently granted a group of similarly situated small companies a 2½ -year suspension until November 24, 2006.⁷

3. If the Commission should grant a suspension, what reasons support that suspension?

As explained in more detail above, suspension is warranted in order to avoid an adverse economic impact on consumers and an undue economic burden on Petitioners.

Respectfully submitted,



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TELEPHONE COMPANY, IAMO TELEPHONE
COMPANY, ELLINGTON TELEPHONE
COMPANY, BPS TELEPHONE COMPANY,
AND OREGON FARMERS MUTUAL
TELEPHONE COMPANY**

⁷ *Harrisonville Telephone Company Petition for Suspension of Modification, Case No. 03-0731, Order, issued May 11, 2004.*

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 2nd of July 2004.

/s/ Brian T. McCartney

Brian T. McCartney