

BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Petition of Holway)	
Telephone Company for Suspension and)	Case No. TO-2004-0403
Modification of the FCC Requirement to)	
Provide Local Number Portability.)	

**STATUS REPORT
ON INTERMODAL LOCAL NUMBER PORTABILITY**

COMES NOW Holway Telephone Company ("Company") and for its Status Report on Intermodal Local Number Portability states to the Missouri Public Service Commission ("Commission") as follows:

SUMMARY

In 2004, the Commission granted the Company a two-year suspension of the Federal Communications Commission ("FCC") local number portability ("LNP") rules for wireline-to-wireless (or "intermodal") LNP. In 2005, the FCC's intermodal LNP rules were stayed, reversed, and remanded to the FCC by the United States Court of Appeals for the D.C. Circuit for small rural carriers such as the Company. The FCC invited comment on its LNP rules in August and September of 2005, but to date no further action has been taken by the FCC.

The Company's two-year Commission suspension is set to end later this month. Therefore, this Status Report is being filed to advise the Commission that the Company is currently under no obligation to provide intermodal LNP. The Company will file another status report if and when the FCC takes further action on intermodal LNP.

DISCUSSION

1. **The FCC's Porting Requirements (2003)**. On November 10, 2003 and January 16, 2004, the FCC issued Orders in CC Docket No. 95-116 regarding intermodal number portability. Those orders concluded that local exchange carriers must port numbers to wireless carriers where the requesting wireless carrier's "coverage area" overlaps the geographic location of the rate center in which the customer's wireline number is provisioned.

2. **Missouri PSC Suspension Proceedings (2004)**. In Missouri, a number of small rural carriers sought and were granted suspensions from the FCC's LNP requirements. At that time, the Commission found that anticipated demand for LNP in the rural areas served by small companies was "quite small."¹ The Commission reviewed estimated LNP customer surcharges and found that "the significant adverse economic impact on these rural customers currently outweighs any potential benefit that Petitioner's subscribers would receive from wireline-to-wireless LNP."² The Commission also determined that suspension would avoid an undue economic impact on small rural companies.³

3. **D.C. Circuit Court of Appeals Decision (2005)**. In March of 2005, the FCC's *Intermodal LNP Order* was reversed, remanded, and stayed as it applied to small entities such as the Petitioners because the FCC failed to prepare a final regulatory flexibility analysis to gauge the impact of the order on

¹ See e.g., *In the Matter of the Petition of BPS Telephone Company for Suspension and Modification of the FCC's Requirement to Implement Number Portability*, Case No. TO-2004-0484, *Report and Order*, Aug. 26, 2004, p. 9.

² *Id.*

³ *Id.* at p. 10.

small companies. Over a year has passed since the court reversed and remanded the FCC's intermodal LNP rules.

4. **FCC Comment Period (2005)**. In response to the federal appeals court ruling, the FCC sought comment on its flexibility analysis for small companies regarding LNP. Comments were received in August of 2005, and Reply Comments were received in September 2005. To date, there has been no action on intermodal LNP for small rural carriers by the FCC. Thus, at present, there is no FCC requirement for the Company to implement intermodal LNP.

5. **May 2006 Expiration of Commission Suspensions**. The Commission's two-year LNP suspensions are set to expire in late May, 2006.

6. **Status Report**. This Status Report is being filed to advise the Commission that due to the D.C. Circuit's reversal, remand, and stay of the FCC's intermodal LNP rules, there is currently no requirement for the Company to implement LNP at this time.

7. **Further Status Reports**. If and when the FCC takes further action on its LNP rules for rural carriers, the Company will file another status report.

Respectfully submitted,

/s/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 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 May, 2006, 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

/s/Brian T. McCartney

Brian T. McCartney