

Exhibit No. _____
Issue: Suspension and Modification of LNP
Requirements
Witness: Ron Williams
Type of Exhibit: Surrebuttal Testimony
Sponsoring Party: Western Wireless
Case No. TO-2004-0401 (KLM)
Date: July 16, 2004

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

CASE NO. TO-2004-0401

SURREBUTTAL TESTIMONY

OF

RON WILLIAMS

FILED

JUL 29 2004

**Missouri Public
Service Commission**

**ON BEHALF OF WWC HOLDING COMPANY, INC.
(WESTERN WIRELESS dba CellularOne)**

July 16, 2004

Exhibit No. 24
Case No(s) TO-2004-0401
Date 7-21-04 Rptr KF

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OF
RON WILLIAMS

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1 **I. QUALIFICATIONS AND PURPOSE OF TESTIMONY**

2 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3 A. My name is Ron Williams. My business address is 3650 131st Avenue South East,
4 Bellevue, Washington 98006.

5 **Q. HAVE YOU PREVIOUSLY FILED TESTIMONY IN THIS DOCKET?**

6 A. Yes. I filed rebuttal testimony on behalf of WWC Holding Company, Inc. (Western
7 Wireless) on July 2, 2004.

8 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

9 A. The purpose of my testimony is to address the rebuttal testimony offered by Natelle
10 Dietrich on behalf of the Missouri Public Service Commission Utility Operations
11 Division ("Staff"). Ms. Dietrich's testimony provides support, albeit unfounded, for
12 Petitioner's request for suspension and for modification of rules related to LNP. My
13 testimony will address the following issues raised in Ms. Dietrich's testimony:

- 14 ▪ **KLM has not demonstrated a Significant Adverse Economic Impact on**
15 **Users of Telecommunications Generally, Caused by LNP Obligations.**
- 16 ▪ **Transport of local calls to ported numbers does not result in KLM**
17 **"operating like an interexchange carrier".**
- 18 ▪ **Transport of calls to ported numbers does not result in economic harm to**
19 **KLM or its customers.**
- 20 ▪ **Western Wireless does not support a modification of FCC rules related to**
21 **KLM routing obligations.**
- 22 ▪ **The recommendation of the Staff is misplaced.**
- 23 ▪ **The result of the Commission's earlier orders on similar LNP Petitions**
24 **has compromised the negotiations to resolve KLM's concerns short of**
25 **Commission Order.**

1 **II. KLM HAS NOT DEMONSTRATED A SIGNIFICANT ADVERSE**
2 **ECONOMIC IMPACT ON USERS OF TELECOMMUNICATIONS GENERALLY,**
3 **CAUSED BY LNP OBLIGATIONS.**

4 **Q. MS. DIETRICH PROVIDES AN OPINION THAT A TWO-YEAR SUSPENSION OF LNP**
5 **OBLIGATIONS IS NECESSARY FOR KLM TO AVOID A SIGNIFICANT ADVERSE**
6 **ECONOMIC IMPACT ON USERS OF TELECOMMUNICATIONS GENERALLY. CAN YOU**
7 **IDENTIFY ANY METRICS THAT MS. DIETRICH HAS USED AS A BASIS FOR HER**
8 **OPINION?**

9 **A. No. Ms. Dietrich has offered no evidence or analysis of the cost claims made by**
10 **KLM and no data or analysis that the effect of those costs would create an economic**
11 **impact on users that would be significant.**

12 **Q. HAS KLM PROVIDED ANY EVIDENCE TO SUPPORT A CLAIM OF UNDUE ECONOMIC**
13 **BURDEN OR SIGNIFICANT ADVERSE IMPACT ON USERS?**

14 **A. No. The information provided in Petitioner's testimony and exhibits has identified**
15 **the cost of upgrading its existing switch to be LNP capable. The mere existence of an**
16 **upgrade cost does not create an undue economic burden nor a significant adverse**
17 **economic impact. The fact that a switch may be more than 3 years away from**
18 **continued manufacturer support does not constitute an undue economic burden or a**
19 **significant adverse economic impact for purposes of evaluating a petition for**
20 **suspension of LNP requirements, either. In fact, the Arizona Corporation**
21 **Commission recently issued an order on a case involving even more extreme**
22 **circumstances for Arizona Telephone Company. The Arizona Commission Order**
23 **includes this statement:**

24 "Based on ATC's estimates, implementing LNP company wide
25 should result in EUDCs [End User Direct Costs] for all ATC
26 exchanges of \$2.93 per access line. Staff does not believe that an

1 EUDC of \$2.93 represents a significant, adverse impact on users of
2 telecommunications services.”¹

3
4 **III. TRANSPORT OF LOCAL CALLS TO PORTED NUMBERS DOES NOT**
5 **RESULT IN THE PETITIONERS ‘OPERATING LIKE AN INTEREXCHANGE**
6 **CARRIER’.**

7 **Q. MS. DIETRICH TAKES THE POSITION THAT TRANSPORTING CALLS TO PORTED**
8 **NUMBERS COULD RESULT IN THE PETITIONERS ‘OPERATING LIKE AN**
9 **INTEREXCHANGE CARRIER’ (DIETRICH REBUTTAL TESTIMONY, P. 6, LL. 6-7). IS**
10 **THIS AN ACCURATE CONCLUSION?**

11 **A.** No, there are two significant distinctions that separate a call to a number ported to a
12 wireless carrier and an interexchange call. A call to a ported number may require
13 routing to a point that is not in the originating rate center, but this does not impact the
14 rating of the call nor does it define the call as interexchange. Further, an intermodal
15 call originating from a rate center from which a number was ported to a wireless
16 carrier is, by definition, within the local calling area.

17 **Q. HAS THE FCC PROVIDED CLEAR EXPECTATIONS FOR LEC ROUTING OF CALLS TO**
18 **NUMBERS PORTED TO A WIRELESS CARRIER?**

19 **A.** Yes. The FCC has made explicit that this intermodal call is within the local calling
20 area and these calls maintain their rate center designation.²

¹ See In the Matter of the Petition of the Emergency Petition of Arizona Telephone Company for Suspension of the Local Number Portability Obligations of Section 251(B), Docket T-02063A-04-0010, Decision No. 67110, Docketed July 9, 2004, ¶32 – attached as Exhibit RW-6.

² 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” – attached to Rebuttal Testimony of Ron Williams (July 2, 2004) as Exhibit RW-1.

1 **IV. TRANSPORT OF CALLS TO PORTED NUMBERS DOES NOT RESULT IN**
2 **ECONOMIC HARM TO THE PETITIONERS OR TO THEIR END USERS.**

3 **Q. DOES MS. DIETRICH TAKE THE POSITION THAT TRANSPORTING CALLS TO PORTED**
4 **NUMBERS MAY RESULT IN ECONOMIC HARM?**

5 A. No. Ms. Dietrich offers no data and no analysis that the transport of calls to ported
6 numbers creates either an undue economic burden on KLM or a significant adverse
7 economic impact on users of telecommunications generally.

8 **Q. HAS KLM PROVIDED ANY EVIDENCE TO SUPPORT A CLAIM OF UNDUE ECONOMIC**
9 **BURDEN?**

10 A. No. Only Ms. Dietrich raises the prospect of a potential need to “build facilities or
11 establish business arrangements with other carriers...” (Dietrich Rebuttal, p. 6, ll. 21-
12 22). No quantification is provided of such costs, the impact on KLM is not assessed,
13 and there is no estimate of the impact on users. Yet, Ms. Dietrich implies that this is
14 somehow sufficient to justify a modification of FCC rules regarding routing
15 responsibility on calls to ported numbers (Dietrich Rebuttal, p. 7, ll. 3-7)

16 **Q. IS THERE A WAY TO FORECAST THE COST OF CALL TRANSPORT TO PORTED**
17 **NUMBERS?**

18 A. Yes. An estimate of the volume and length of local calls to a ported number could be
19 developed based on current local calling characteristics. This could be used to
20 develop a monthly traffic volume based on the aggregate quantity of ported numbers.
21 Then the monthly traffic volume could be used to estimate the amount to be paid to a
22 transit provider. Here is an example: Assuming an aggregate of 100 ported numbers,
23 a daily volume of 6 local calls originated to each of these numbers at a length of 3
24 minutes per call, and a transit rate of \$.005 per minute of use, the monthly transit
25 usage cost would be \$270. Given the operating characteristics of the Petitioner, it

1 would be difficult to construe this cost as an undue economic burden for complying
2 with its obligations under the law.

3 **Q. IS THERE AN EXAMPLE OF A LEC INITIATED TANDEM ROUTING APPROACH THAT**
4 **COULD BE USED TO SATISFY ROUTING OBLIGATIONS?**

5 A. Yes. The Minnesota Commission recently issued an order in an LNP suspension
6 proceeding.³ The proceeding involved a request by the Minnesota LECs for a brief
7 suspension of LNP obligations to enable them to complete the implementation of a
8 tandem routing solution for their obligation to route traffic to ported numbers even
9 though no direct connection existed with the terminating carrier.

10 **Q. WHO CAME UP WITH THE APPROACH BEING IMPLEMENTED BY THE MINNESOTA**
11 **LECS?**

12 A. The Minnesota LECs developed the tandem routing approach for delivering calls to
13 ported numbers because it was the most economical method available to meet their
14 routing obligations.

15 "The Companies believe this can be accomplished efficiently and
16 cost effectively, if such calls are routed via the same facilities used
17 by the CMRS providers to deliver their traffic to the Companies."
18 (at p. 5)

19 and

20 "...the Companies have focused on the eminently reasonable
21 solution of making use of the very same facilities used by the
22 CMRS providers to deliver traffic to the Companies."(at p.10)⁴

³ See In the Matter of the Petition of the Minnesota Independent Coalition for Suspension of Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. § 251(f)(2), Docket M-04-707, Order Issued July 8, 2004 – attached as **Exhibit RW-7**.

⁴ See In the Matter of the Petition of the Minnesota Independent Coalition for Suspension of Modification of Local Number Portability Obligations Pursuant to 47 U.S.C. § 251(f)(2), Docket M-04-707, Petition, pp. 5, 10.

1 Not only did the Minnesota LECs admit to their obligations to route traffic to ported
2 numbers, they proactively sought the most economical solution to fulfill those
3 obligations.

4 **Q. COULD THE SAME APPROACH BE UTILIZED IN MISSOURI?**

5 A. I don't see why not. The current network configuration between the Petitioners and
6 SBC is very similar to the configuration in place between Minnesota LECs and
7 Qwest.

8 **Q. IS THE APPROACH USED BY THE MINNESOTA LECs ANY DIFFERENT THAN THE**
9 **DELIVERY OF WIRELESS TRAFFIC TO LECs IN MISSOURI?**

10 A. No. The planned arrangements in Minnesota are a mirror image of the way most
11 wireless carriers deliver traffic to KLM. This tandem routed approach to the
12 exchange of traffic between two carriers is utilized today. I have attached a series of
13 three diagrams that show how the tandem routing approach is used today, how it
14 differs from direct connections, and how it could be utilized by the Petitioners' to
15 meet their LNP routing obligations (*See Exhibit RW-8*).

16 **V. WESTERN WIRELESS DOES NOT SUPPORT A MODIFICATION OF FCC**
17 **RULES RELATED TO PETITIONER ROUTING OBLIGATIONS.**

18 **Q. DOES WESTERN WIRELESS SUPPORT A MODIFICATION OF FCC RULES INVOLVING**
19 **KLM'S OBLIGATION TO ROUTE TRAFFIC TO PORTED NUMBERS?**

20 A. No. Western Wireless does not support any modification of FCC rules in response to
21 these Petitions.

22 **VI. THE RECOMMENDATION OF THE STAFF IS MISPLACED.**

23 **Q. HAVE THE PETITIONERS OR THE COMMISSION STAFF ESTABLISHED SUFFICIENT**
24 **GROUND FOR A SUSPENSION OR A MODIFICATION OF FCC RULES?**

25 A. They don't even come close to providing sufficient basis for the Missouri Public
26 Service Commission to suspend or modify the Petitioners' LNP obligations. KLM

1 testimony and Ms. Dietrich have not demonstrated technical infeasibility in their
2 testimony. KLM has provided cost information that does not support a claim for
3 undue economic burden. Ms. Dietrich has provided no further information on
4 economic burden. Neither KLM nor Ms. Dietrich have provided metrics that would
5 indicate any cost incurred would be undue in relation to any aspect of the Petitioner's
6 business (e.g., no comparison is made to any financial indices relevant to any aspect
7 of the Petitioner's balance sheets, income statements, or cash flows nor has a
8 comparison been made to other similarly situated LECs that have implemented LNP).
9 Finally, the limited evidence provided by KLM which was apparently used by Ms.
10 Dietrich to support her conclusions, does not warrant a claim of significant adverse
11 impact on users of telecommunications services generally. In fact, Western Wireless
12 has presented the most complete evidence on KLM end user impact and our estimate
13 of 61 cents per end user line per month falls far short of any threshold for concluding
14 that the end user impact is significantly adverse. Since these Section 251(f)(2)
15 criteria for suspension or modification of FCC rules have not been met, the
16 Commission cannot accept the recommendations of the Staff and cannot grant the
17 Petitions.

18 **Q. WHAT ARE YOUR CONCERNS ABOUT THE NATURE OF THE PROPOSED MODIFICATION**
19 **OF FCC RULES ON THE ROUTING OF CALLS TO PORTED NUMBERS?**

20 A. The recommendation to modify the FCC rules conflicts with at least two significant
21 FCC orders involving LNP. The FCC has addressed the obligation of routing traffic
22 to ported numbers in the Intermodal Porting Order (§39) and more extensively in
23 dealing with CenturyTel's misrouting of calls destined to ported numbers (including

1 routing of calls to intercept messages).⁵ Here is how the FCC distinguished routing
2 from LNP obligations in the CenturyTel Notice of Forfeiture:

3
4 “4. Regardless of the status of a carrier’s obligation to provide
5 number portability, all carriers have the duty to route calls to
6 ported numbers. In other words, carriers must ensure that their call
7 routing procedures do not result in dropped calls to ported
8 numbers.”

9
10 And then in paragraph 5:

11
12 “...the Commission clearly imposed requirements on the carrier
13 immediately preceding the terminating carrier, designated the ‘N-1
14 carrier’, to ensure that number portability databases are queried
15 and thus that calls are properly routed.”

16
17 And then in paragraph 13: Responsibility is clearly assigned to the
18 N-1 carrier:

19
20 “This report specifically states that where the N-1 carrier, either a
21 LEC or an IXC, is not LNP-capable, the N-1 carrier ‘should
22 arrange with [another carrier] to terminate default routed calls.’”

23
24 Further evidence of the FCC’s directive on LEC obligations to route properly to
25 ported numbers can be gleaned from the very recent FCC Order involving a Consent
26 Decree with CenturyTel.⁶ Among many components of the Compliance Plan agreed
27 to by CenturyTel, routing to ported numbers is addressed:

⁵ See *In the Matter of CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc. Apparent Liability for Forfeiture*, DA 04-1304, Released May 13, 2004.

⁶ See *In the Matter of CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc.* DA 04-2065, Released July 12, 2004. Attached as **Exhibit RW-9**.

1 “Whenever it is the N-1 carrier, CenturyTel will ensure that any
2 call placed by a CenturyTel customer to a ported number is
3 properly routed to the network of the current carrier serving that
4 telephone number, based on the LRN.” (See ¶9(d))

5 Further, removing the obligation of the originating carrier to route calls to
6 ported numbers (see Dietrich Rebuttal, p.7, ll. 3-7), imposes a de facto
7 obligation on a wireless carrier to establish an interconnection agreement
8 to establish facilities to receive traffic destined to a number ported to their
9 network. The imposition of interconnection agreements as a precondition
10 to intermodal porting is expressly prohibited in the FCC’s Intermodal
11 Order.⁷

12 **Q. HOW IS KLM PROPOSING TO DEAL WITH THEIR ROUTING OBLIGATIONS?**

13 A. Apparently KLM has presumed they will be able to avail themselves of a routing
14 obligation avoidance scheme similar to that concocted in this Commission’s prior
15 orders modifying LNP obligations. In a late filed exhibit, KLM indicates they will
16 misroute calls destined to numbers ported from their rate centers to an intercept
17 message that says:

18 “Your call cannot be completed as dialed. The local number has
19 been ported to a wireless carrier. You must dial the call as a 1 plus
20 toll call and will be charged toll until the wireless carrier
21 establishes a local connection.”

22 This language is in clear contravention of KLM’s FCC-mandated routing obligations.
23 The language implies that it is the wireless carrier’s responsibility to fulfill KLM’s
24 routing obligations. That is simply not the case. The FCC has dealt with routing calls
25 to ported numbers to intercept messages and the changing of a local call to a toll call

⁷ See “*Intermodal Porting Order*” ¶¶ 34-36 – **RW Exhibit 1 (Rebuttal Testimony of Ron Williams)**

1 due to a port. Misrouting calls to ported numbers as toll calls is in clear violation of
2 the FCC's rules:

3 "a wireless carrier porting-in a wireline number is required to maintain
4 the number's original rate center designation following the port. As a
5 result, calls to the ported number will continue to be rated in the same
6 fashion as they were prior to the port."⁸

7 This is consistent with the Telecom Act's definition of LNP:

8 "The ability of users of telecommunications services to retain, at the
9 same location, existing telecommunications numbers *without*
10 *impairment of quality, reliability, or convenience* when switching
11 from one telecommunications carrier to another."⁹ [Emphasis added]

12 **VII. THE COMMISSION'S EARLIER ORDERS ON LNP MODIFICATIONS**
13 **HAVE NEGATIVELY IMPACTED THIS PROCEEDING AND THE PUBLIC**
14 **INTEREST.**

15 **Q. WHAT IMPACT HAVE THE MISSOURI PUBLIC SERVICE COMMISSION'S PREVIOUS**
16 **LNP ORDERS HAD ON THIS PROCEEDING?**

17 A. The LNP Orders already issued by the Commission have removed parity from the
18 negotiations between Western Wireless and the Petitioners in this proceeding. The
19 grant of modification and delay on the basis of very limited evidence has had an
20 inevitable chilling effect on the likelihood of the parties to this case reaching any
21 negotiated settlement.

22 **Q. IF PERMITTED TO STAND, WHAT IMPACT WILL THE COMMISSION'S PREVIOUS LNP**
23 **ORDERS HAVE ON MISSOURI CONSUMERS?**

24 A. The orders will have at least two impacts on Missouri consumers. Most significantly,
25 the orders are likely to further delay the implementation of LNP and competitive
26 choice in some LEC service areas as a result of the unwarranted imposition of

⁸ *Intermodal Porting Order* ¶ 27.

⁹ 47 U.S.C. § 153(30)

1 additional costs on competitive service providers. Additionally, the structure of the
2 Commission's rule modification imposes a potentially inefficient network
3 interconnection solution that results in higher costs for all consumers. Finally, to the
4 extent that Commission Orders conflict with Federal law and exceed the limits of the
5 Commission's authority under Section 251(f), the Orders are susceptible to court
6 challenges which will impose additional burdens on all parties.

8 VIII. CONCLUSION

9 **Q. DOES MS. DIETRICH'S TESTIMONY ADDRESS WHETHER THE PETITIONERS HAVE**
10 **MET THE STANDARD FOR SUSPENSION OR MODIFICATION OF LNP OBLIGATIONS?**

11 No. Ms. Dietrich does not rely on the statutory standards in making the
12 recommendations in her testimony. Further, Ms Dietrich's testimony provides no
13 additional information relevant to the statutory criteria for assessing the Petitioner's
14 merits for being granted a suspension or modification of LNP obligations.

15 The Commission should reject the Petitioner's arguments for modification of LNP
16 obligations, deny its request, and order the Petitioners to implement LNP consistent
17 with obligations arising from receipt of a bona fide request.

18
19 **Q. DOES THIS CONCLUDE YOUR SURREBUTTAL TESTIMONY?**

20 A. Yes, it does.

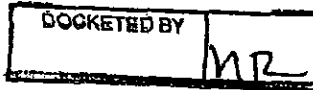
BEFORE THE ARIZONA CORPORATION COMMISSION

MARC SPITZER
Chairman
WILLIAM A. MUNDELL
Commissioner
JEFF HATCH-MILLER
Commissioner
MIKE GLEASON
Commissioner
KRISTIN K. MAYES
Commissioner

Arizona Corporation Commission

DOCKETED

JUL - 9 2004



IN THE MATTER OF THE EMERGENCY
PETITION OF ARIZONA TELEPHONE
COMPANY FOR SUSPENSION OF THE
LOCAL NUMBER PORTABILITY
OBLIGATIONS OF SECTION 251(B)

DOCKET NO. T-02063A-04-0010

DECISION NO. 67110ORDER

Open Meeting
July 6 and 7, 2004
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

1. On January 8, 2004, Arizona Telephone Company ("ATC") filed with the Arizona Corporation Commission ("Commission") an emergency petition to indefinitely suspend ATC's obligations under Section 251(b) of the Communications Act of 1934 ("Act") to provide local number portability ("LNP") to requesting Commercial Radio Service providers.

2. Staff's Report addresses whether or not ATC should receive a suspension of its LNP obligations based on or consistent with the criteria set forth in Section 251(f)(2) of the 1996 Act.

3. LNP is a service which allows users of telecommunications services to retain existing numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another. Incumbent local exchange companies ("ILECS") and competitive local exchange companies are to have LNP implemented within 180 days of receiving a bona fide request ("BFR") from another telecommunications service provider. Section 251(b) of

1 the Telecommunications Act of 1996 ("1996 Act") provides that all ILECs have the duty to
2 provide to the extent technically feasible, number portability in accordance with the requirement
3 prescribed by the Federal Communications Commission ("FCC"). The FCC ordered intermodal
4 LNP (e.g., LNP that applies to customers who switch to a cellular company) to be implemented on
5 or before May 24, 2004¹. The costs of such implementation are to be paid for by customers over a
6 five year time period.

7 On November 7, 2003, WWC License LLC ("Western Wireless") sent ATC two BFRs to
8 implement LNP on or before the FCC's LNP implementation deadline of May 24, 2004. The two
9 ATC exchanges receiving the BFRS were Harquahala, Hyder.

10 4. After receiving these BFRs, ATC filed an emergency petition with the Commission
11 to indefinitely suspend of its LNP obligations pursuant to the 1996 Act.

12 5. Under section 251(f)(2) of the 1996 Act, a state public utility commission may
13 suspend or modify a party's obligations under Section 251(b) or (c) of the 1996 Act, in the case of
14 a local exchange carrier "with fewer than 2 percent of the Nations subscriber lines installed in the
15 aggregate nationwide," where the state commission determines that "such suspension or
16 modification.

17 (A) is necessary-

- 18 (i) to avoid a significant adverse economic impact on users of
19 telecommunications services generally;
20 (ii) to avoid imposing a requirement that is unduly economically
21 burdensome; or
22 (iii) to avoid imposing a requirement that is technically infeasible; and

23 (B) is consistent with the public interest, convenience, and necessity."

24 6. ATC indicated that it has 9 exchanges in Arizona. Of these 9 exchanges, two have
25 received BFRs (Harquahala and Hyder). ATC indicated that the per switch, monthly End User
26 Direct Cost ("EUDC") of implementing LNP in Harquahala is \$6.92 per access line while the
27

28 ¹ Telephone Number Portability, CC Docket 95-116, Third Report and Order, May 12, 1998 ("Third Report and Order")

1 EUDC of implementing LNP in Hyder is \$9.83 per access line (See Attachment A). ATC believes
2 these costs to be unduly economically burdensome and believes that suspension of its LNP
3 obligations are in the best interests of its customers.

4 7. ATC estimates the per month EUDCs for the other 7 exchanges to be \$0.40, \$0.71,
5 \$0.93, \$6.13, \$11.36, \$13.12 and \$14.14.

6 8. ATC indicated that in some locations, the addition of these EUDCs would more
7 than double the local subscriber rates. ATC believes that these EUDCs would cause "significant
8 adverse economic impact on users of telecommunications services generally."

9 9. ATC stated that although LECs have been aware of the FCC's requirement that
10 carriers implement LNP within 6 months of a BFR, it wasn't until November 10, 2003, that LNP
11 obligations of wireline providers included porting of numbers outside of rate centers (e.g. to
12 cellular carriers). ATC believes LNP implementation by May 24, 2004, is technically infeasible as
13 no amount of preparation, given the prevailing definition of incumbent carriers' porting
14 obligations prior to the November Order, could have prepared ATC for the FCC's November 10,
15 2003, policy shift.

16 10. While ATC believes that its current switches provide a very high quality of service,
17 ATC indicated that its switches are not LNP capable and in some cases, not Communications
18 Assistance to Law Enforcement Act ("CALEA") capable either. Because these are the only
19 limitations to its current switches, ATC does not believe switching upgrades would be of great
20 benefit at this time.

21 11. Western Wireless believes the suspension of ATC's LNP obligations are not in the
22 best interest of ATC's customers as they do not "allow rural customers served by the petitioners to
23 enjoy the same rights as all other consumers in Arizona that are able to select the service provider
24 that best meets their telecommunications needs and retain their telephone number in the process."
25 Western Wireless states that the 1996 Act specifically requires LECs to implement LNP within 6
26 months of receiving a BFR from another carrier. Western Wireless believes LNP is a national
27 mandate that ATC has known about and should have prepared for.

28 ...

1 12. Western Wireless also states that the FCC has indicated that in order to justify a
2 suspension or modification of a LEC's LNP implementation obligations, "a LEC must offer
3 evidence that the application of those requirements would be likely to cause undue economic
4 burdens beyond the economic burdens typically associated with efficient and competitive entry."
5 Western Wireless believes that ATC's assigning much needed and costly network upgrade costs to
6 its LNP cost recovery may not be permitted under the FCC rules. Western Wireless believes the
7 LNP recovery rules only allow for "carrier-specific costs directly related to providing long-term
8 number portability" to be recovered. Western Wireless asserts that, without the additional network
9 upgrade costs, the EUDC of implementing LNP is reduced by roughly 60%.

10 13. Western Wireless acknowledges that the system upgrades needed to implement
11 LNP for ATC are significant. Western Wireless also points out that these costs are also necessary
12 as ATC's switches don't offer other these modern features leaving customers at a disadvantage.
13 Western Wireless believes implementing LNP will provide the switch updates necessary to allow
14 ATC customers to enjoy other modern communications benefits.

15 14. Western Wireless believes that because ATC's parent company, TDS, has
16 implemented LNP in other states, that LNP implementation in Arizona is in the public interest,
17 feasible and should be done. Western Wireless understands that LNP implementation could be
18 costly and may require additional time to address it in a manner that would affect the end user the
19 least. Because of this, Western Wireless supports a 6-month extension of ATC's LNP obligations
20 until November 24, 2004.

21 15. On February 26, 2004, April 15, 2004 and June 11, 2004, Staff received responses
22 to data requests sent to ATC. In these responses, ATC explained how EUDCs were determined,
23 provided information concerning LNP implementation by ATC's parent company, TDS, in other
24 states as well as information concerning whether or not ATC currently has switches utilizing SS7
25 switching.

26 16. ATC indicated that the EUDCs associated with implementing LNP do not include
27 network upgrade costs. The methodology used to determine the EUDCs consists of the combined
28 LNP Software, other Vendor and Translation Costs divided by the number of customers and then

1 dividing that number by 60 (the number of months the FCC has allowed LNP to be paid off). The
2 FCC's Third Report and Order required that the EUDC consists of "carrier-specific costs directly
3 related to providing long-term number portability." Although the software needed to implement
4 LNP is not excessively expensive, calculation of the EUDCs on an exchange as opposed to a
5 company or system wide basis combined with the 60 month timeframe to pay these software costs
6 are what produce the EUDC charges.

7 17. Ultimately, ATC is required to file its proposed EUDCs and supporting
8 documentation with the FCC. The FCC will then review and approve the final EUDCs to be
9 charged by ATC.

10 18. Many rural local exchange carriers have found the EUDC's of implementing LNP
11 to be quite high. Because of this, companies have had to implement alternative ways to allocate the
12 costs related to LNP. One alternative which companies, including Verizon, have utilized is
13 implementing LNP on a companywide basis rather than a per exchange basis and have each end
14 user pay equal portions of the total cost.

15 19. In determining the EUDC of LNP on its end users, ILECS have the following 3
16 choices:

- 17 A. Determine EUDCs on a per exchange basis.
- 18 B. Determine EUDCs on a companywide basis.
- 19 C. Determine EUDCs on a system-wide basis.

20 20. ATC indicated that it had determined the EUDCs of implementing LNP on a per
21 exchange basis. Many ILECS, including QWEST Corporation ("Qwest") and Citizens
22 Telecommunications Companies ("Citizens"), have determined that it is less financially
23 burdensome to its end users to implement LNP on a companywide basis rather than a per
24 exchange basis. The EUDC of implementing LNP for Qwest is \$0.43 and \$0.34 for Citizens.
25 ATC indicated that its total cost of implementing LNP throughout all 9 of its Arizona exchanges
26 is \$726,445. When this figure is divided by 4126 (the total number of ATC customers company
27 wide) and then divided by 60 (the number of months the FCC has allowed companies to recoup
28 LNP costs), the EUDC of implementing LNP throughout all 9 of ATC's exchanges is \$2.93 per
access line (see Attachment A). If TDS were to calculate the EUDC on a system-wide basis, the
EUDC may be lower than \$2.93 per access line.

1 21. In responses to Staff Data Requests, ATC's parent company, TDS, also indicated
2 that as of April 15, 2004:

3 A. TDS had 24 offices in 10 states, serving less than 1000 access lines, requesting
4 suspension of LNP implementation obligations. No decisions regarding the
petitions had been rendered.

5 B. TDS was planning to implement LNP, in rate centers with less than 1000 access
6 lines, in 50 instances on or before May 24, 2004.

7 C. TDS was planning on implementing LNP in 34 rate centers, serving less than 1000
8 access lines, on or before November 24, 2004.

9 22. As of June 11, 2004, TDS indicated that it had 278 offices outside of Arizona that
10 have received BFRs for LNP implementation. LNP was implemented in 168 of those offices by
11 May 24, 2004. TDS plans to implement LNP in 91 offices between May 24, 2004 and November
12 24, 2004. ATC indicated that of the 20 remaining offices, 11 may be scheduled to have LNP
13 implemented between November 24, 2004 and May 24, 2005. No indication of an LNP
14 implementation date was given for the nine remaining offices. Also, TDS indicated that switch
15 replacement is not required, but is the best alternative given upgrade costs vs. total switch
16 replacement costs. In response to Staff's inquiry, TDS did not provide information on how many
17 offices are scheduled for total switch replacement. TDS was also unable to provide information
18 indicating the EUDC of LNP implementation in other offices in other states.

19 23. In its June 11, 2004 response to Staff's data requests, TDS indicated that in 2002,
20 ATC's average Capital Budget per line was in excess of \$3.00 less than the average Capital
21 Budget per line for all of TDS' offices. For 2003, ATC's average Capital Budget per line was in
22 excess of \$103 less than the average Capital Budget per line for all of TDS's offices. For 2004,
23 TDS projects that ATC's average Capital Budget per line will be in excess of \$42.00 more than
24 the average Capital Budget per line for all of TDS' offices.

25 24. SS7 is a type of signaling that, among other things, allows features such as caller ID
26 so that customers on the receiving end of a telephone call may receive information about the
27 person calling as the phone rings. An example of this would be a business addressing a caller by
28 his/her name and having their past calling history (if applicable) on a computer screen before the

1 business picks up the phone. In its June 11, 2004 response to Staff's data requests, ATC indicated
2 that its Arizona switches are not SS7 capable.

3 25. In its June 11, 2004 response to Staff's data requests, ATC indicated that its
4 forecasted Capital Budget for 2004 is \$825,914. TDS provided its forecasted Capital Budget for
5 2004 on a confidential basis. The LNP implementation costs submitted by ATC equal \$354,505
6 when combined and account for 42.9% of ATC's Capital Budget and less than 0.5% of TDS'
7 Capital Budget.

8 26. As of June 3, 2004, 36 states have received 250 requests for suspensions and/or
9 waivers of LNP. Of the 250 suspension requests, 40 have been granted and 8 have been denied.
10 The remaining 202 have been closed, settled or are still pending.

11 27. Of the 40 suspensions that have been granted, 11 have implementation suspension
12 periods that end on November 24, 2004 and 14 suspension periods end between November 25,
13 2004 and May 24, 2005. The remaining 15 suspension periods end after May 25, 2005. No
14 suspensions requesting indefinite waivers have been granted.

15 28. The FCC clearly stated that LNP implementation is mandatory and placed the
16 deadline of May 24, 2004 for implementation for offices that had received BFRS prior to
17 November 24, 2003. The FCC also clearly stated that suspensions of LNP obligations may only be
18 granted if there will be severe economic impact, the costs are overly burdensome or if LNP
19 implementation is technically infeasible.

20 29. Staff believes that upgrading ATC's switches will provide not only LNP, but other
21 services which rely on SS7 signaling capability, like caller ID. Implementation of LNP would
22 promote competition by allowing consumers to move to carriers that may better serve their needs
23 without having to give up their telephone numbers.

24 30. TDS indicated that it has or plans to have LNP implemented in over 92% of its
25 offices by November 24, 2004. Staff has not been provided with any information to indicate that
26 ATC's offices should not have LNP implemented by November 24, 2004.

27 31. While the software costs of implementing LNP account for 42.9% of ATC's
28 forecasted 2004 Capital Budget, these costs account for only less than 0.5% of TDS's forecasted

1 2004 Capital Budget. Staff does not believe this figure imposes a requirement that is unduly
2 economically burdensome.

3 32. ATC submitted information indicating that the estimated monthly EUDCs of
4 implementing LNP for the 2 exchanges receiving BFRs to be \$6.92 and \$9.83 per line, per month
5 and for its other exchanges, at \$0.40, \$0.71, \$0.93, \$6.13, \$11.36, \$13.12 and \$14.14 per line, per
6 month. Rather than implementing LNP on a per exchange basis, Staff recommends that ATC
7 implement LNP companywide. Based on ATC's estimates, implementing LNP companywide
8 should result in EUDCs for all ATC exchanges of \$2.93 per access line. Staff does not believe that
9 an EUDC of \$2.93 represents a significant, adverse economic impact on users of
10 telecommunications services. Based on Staff's analysis, ATC could implement LNP on a
11 companywide basis. If ATC chooses this method, Staff believes it is not an economic burden to its
12 end users. Staff recommends denial of ATC's petition for an indefinite suspension of its LNP
13 obligations. Staff recommends a suspension of ATC's LNP obligations in all its exchanges until
14 November 24, 2004.

15 33. Staff understands that ATC currently does not have the infrastructure needed to
16 implement LNP. Staff believes implementation of LNP on or before November 24, 2004 is
17 technically feasible. For example, in Exhibit 3 of its reply comment in an Oklahoma proceeding,
18 TDS' witness stated that with one switch vendor, switches could "be delivered within 40 work
19 days, and that they could be installed within 67 work days of receipt²." Staff believes a suspension
20 past this date would not be appropriate.

21 34. Staff recommends that ATC provide its customers with notification of the LNP
22 surcharge, in the form of either a bill insert or on the bill itself, no less than 60 calendar days prior
23 to the surcharges appearing on their bills. Staff also recommends that ATC provide a copy of its
24 customer notification to the Commission 30 days prior to the date they are sent to its customers,
25 for Staff review.

26 ...

27 _____
28 ² Reply of Petitioners Arizona Telephone Company and Southwestern Telephone Company to the comments of WWC
License, LLC, doing business as Cellular One, May 20, 2004, Exhibit 3, Page 4.

35. Staff recommends that ATC file the EUDC rates ultimately approved by the FCC in a compliance filing with this Commission as soon as the FCC makes such a determination.

CONCLUSIONS OF LAW

1. ATC is a public service corporation within the meaning of Article XV, Section 2, of the Arizona Constitution.

2. The Commission has jurisdiction over ATC and the subject matter of the request.

3. The Commission, having reviewed the filing and Staff's Memorandum dated July 1, 2004, concludes that it is in the public interest to suspend ATC's LNP obligations until and including November 24, 2004.

ORDER

IT IS THEREFORE ORDERED that ATC's LNP obligations for all its exchanges be and hereby are suspended until and including November 24, 2004.

IT IS FURTHER ORDERED that ATC provide its customers with notification of the LNP surcharge, in the form of either a bill insert or on the bill itself, no less than 60 calendar days prior to the surcharges appearing on their bills and that ATC provide a copy of its customer notification to the Commission 30 days prior to the date they are sent to its customers, for Staff review.

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1 IT IS FURTHER ORDERED that ATC file the EUDC rates ultimately approved by the
2 FCC in a compliance filing with this Commission within thirty days of the FCC's determination.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4
5 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

6
7  _____ 
CHAIRMAN COMMISSIONER COMMISSIONER

8
9  _____ 
10 COMMISSIONER COMMISSIONER

11
12 IN WITNESS WHEREOF, I BRIAN C. McNEIL, Executive
13 Secretary of the Arizona Corporation Commission, have
14 hereunto, set my hand and caused the official seal of this
Commission to be affixed at the Capitol, in the City of
Phoenix, this 9th day of July, 2004.

15
16
17 
18 BRIAN C. McNEIL
Executive Secretary

19
20 DISSENT: _____

21
22 DISSENT: _____

23 EGJ:AJL:lm\MAS
24
25
26
27
28

SERVICE LIST FOR: Arizona Telephone Company
DOCKET NO. T-02060A-04-0010

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67110

Decision No. _____

Table 1

Attachment A

**Arizona LNP Switch Status Cost Summary
as of 12/8/03**

Arizona Telephone Company

Blue Ridge/Mormon Lake	1,511	DCO-SE	\$ 162,000	\$ 10,000	\$ 208,500	\$ 2.30	48
Greenhaven	243	MDX-384	81,729		171,043	\$ 11.73	8
(1) (2-P) Harquahala	215	MDX-384	108,971		198,285	\$ 15.37	7
(1) (2-P) Hyder	303	MDX-384	190,700		369,328	\$ 20.32	10
Marble Canyon	110	MDX-384	63,395		149,958	\$ 22.72	4
Roosevelt	657	DCO-SE	162,000	10,000	208,500	\$ 5.29	21
(2-T) Sasabe	102	MDX-384	36,524		123,087	\$ 20.11	3
Supai	127	MDX-384	48,700		135,263	\$ 17.75	4
Tonto Basin	858	DCO-SE	162,000	10,000	208,500	\$ 4.05	27
Totals	4,126		\$ 1,016,019	\$ 30,000	\$ 1,772,464		132

(1) LNP requests received from Western Wireless on 11/7/03

(2) Top 100 MSA and MSA indicator, T=Tucson, P=Phoenix

(3) Directly recovered End User costs, to distribute over 60 months

RW-7

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayner
Marshall Johnson
Ken Nickolai
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner

In the Matter of the Petition by the Minnesota
Independent Coalition for Suspension or
Modification of Local Number Portability
Obligations Pursuant to 47 U.S.C. § 251(f)(2)

ISSUE DATE: July 8, 2004

DOCKET NO. P-et al/M-04-707

ORDER GRANTING SUSPENSION,
SETTING INTERIM RATES, AND SETTING
90-DAY DEADLINE FOR NEGOTIATIONS

PROCEDURAL HISTORY

On May 10, 2004, the Minnesota Independent Coalition (MIC)¹ filed a petition pursuant to 47 U.S.C. § 251(f)(2) and Minn. Rules part 7811.2100 requesting the suspension or modification of its members' obligations under 47 U.S.C. § 251(b)(2) to provide local number portability (LNP) to requesting Commercial Mobile Radio Service (CMRS) providers.

On May 19, 2004, MIC filed a request for a temporary suspension of its members' number portability obligations until the matter came before the Commission.

On May 24, 2004, the Commission issued its ORDER GRANTING TEMPORARY SUSPENSION, which granted MIC's member companies a temporary suspension of their federal local number portability obligations until the Commission took further action on the matter.

Comments were filed by Rural Cellular Corporation, Midwest Wireless Holdings Inc. and Western Wireless Corporation (the Wireless Carriers) on May 17, 2004, by the Department of Commerce (DOC) on May 28, 2004, by Qwest Corporation (Qwest) on June 1, 2004, and by Sprint Corporation, on behalf of its Wireless Division, Sprint Spectrum, L.P., d/b/a Sprint PCS (Sprint) on June 1, 2004.

Reply comments were filed by MIC on June 8, 2004.

Petitions for Intervention were timely filed by Sprint, Rural Cellular Corporation, Midwest Wireless Communications L.L.C., Western Wireless Corporation, and by Local Access Network, LLC, C-I Communications, Inc., and Kasson-Mantorville Telephone Company.

¹ The over sixty members are listed on Exhibit 1, attached hereto. Note that Winnebago Cooperative Telephone Association, Hills Telephone Company, Sioux Valley Telephone Company, and Interstate Telecommunications Cooperative are not petitioners in this docket.

The matter came before the Commission on June 24, 2004.

FINDINGS AND CONCLUSIONS

I. Background

The Federal Communications Commission (FCC) issued an Order November 10, 2003² that required local exchange carriers (LECs), upon receiving a bona fide request from a CMRS provider, to make their switches capable of porting a subscriber's local telephone number to a requesting CMRS provider.

The FCC also ordered all carriers outside the top 100 Metropolitan Statistical Areas (MSA's) to implement wireless LNP (WLNP) by May 24, 2004, for any bona fide request received on or prior to November 24, 2003. For bona fide requests received after November 24, 2003, the LECs had six months following the request to implement wireless LNP.

II. MIC's Petition

A. Request for Temporary Suspension of LNP Obligations

MIC requested that its member companies (MIC Companies or the Companies) be granted a temporary suspension, until July 30, 2004, of obligations to provide wireless local number portability to CMRS providers who have submitted a bona fide request for wireless LNP, or any additional CMRS provider that may subsequently submit a bona fide request for LNP.

MIC argued that the suspension was needed to complete the necessary technical and operational modifications to network connections between the Companies and Qwest for wireless LNP. Further, MIC stated it needed the suspension in order to conclude negotiations with Qwest over the terms and conditions, including rates, for the services and facilities to support wireless LNP.

The MIC Companies stated that they could temporarily resolve the issue of the Companies' duty to route calls to already ported numbers by arranging for carriers other than Qwest to route and terminate the traffic.

B. Other Requests

MIC stated that for the majority of the MIC Companies, there are no direct connections between CMRS providers and the Companies. Rather, CMRS providers in Minnesota have interconnected their wireless networks with tandem switches owned and operated by Qwest, and route their traffic to the Companies via these connections. A substantial majority of the MIC member companies do not have the technical ability to route their traffic to the CMRS carriers via Qwest access tandems, because Qwest has configured the facilities as one-way terminating trunks. This configuration permits the CMRS providers to deliver their traffic to the Companies, but the Companies are unable to similarly route traffic bound for CMRS providers via these trunks.

² *In re Telephone Number Portability*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, FCC 03-284 (2003) (the Intermodal Number Portability Order).

MIC stated that it contacted Qwest to request that Qwest accept traffic from the Companies for ported numbers via existing Company-Qwest trunk groups at Qwest access tandems in Minnesota. This would require both the Companies and Qwest to reconfigure the trunks to accept wireline to wireless ported traffic.

MIC indicated that Qwest was receptive to developing routing for CMRS provider-bound traffic as requested by the Companies, but that Qwest would not make any operational changes until the Companies and Qwest had signed agreements identifying the terms of service.

MIC and Qwest have been unable to reach agreement on the rates and the scope of the agreement. MIC argued that the scope of Qwest's proposed agreement was too broad. Further, MIC objected to the rate Qwest proposed.

MIC argued that the scope of the agreement should be limited to MIC's request for transit services for wireless LNP routing and not cover transit services generally, as Qwest proposed. The MIC Companies also argued that the pricing for wireless LNP services should reflect forward looking costs or total element long-run incremental cost (TELRIC) pricing.

III. Other Parties' Positions

A. Qwest

Qwest stated that it had no objection to MIC's request for an extension of the FCC deadline. Further, Qwest did not object to a temporary short term agreement that would only address CMRS transit traffic. However, Qwest disagreed with the MIC Companies' position that Qwest must provide the MIC Companies with transit service and must do so at TELRIC rates.

Qwest stated that it had offered an interim 90-day arrangement for wireless LNP transit service and that it would be able to implement this interim service for all the trunks at issue in this case within three weeks of a signed agreement.

Qwest also stated that it proposed a more long term agreement that would cover all transit traffic that the MIC Companies send through Qwest's tandem. Qwest argued that it currently receives no compensation for this transit traffic.

B. The Wireless Carriers

The Wireless Carriers opposed a delay of the incumbent local exchange carriers' (ILEC's) obligations to implement wireless LNP. They argued that the ILECs had ample time to make the necessary network modifications to enable them to meet the deadlines established.

The Wireless Carriers recommended that:

- The Commission grant the MIC Companies' request to order Qwest to provide a transit function for the delivery of wireless LNP local traffic at TELRIC rates.
- Qwest and MIC immediately implement the transit of any local traffic that is bound to a number ported from a MIC Company to a Wireless Carrier under interim terms.

- Qwest and the MIC Companies continue to negotiate terms for the transit of any local traffic that is bound from the MIC Companies to the Wireless Carriers.
- The Commission clarify that a suspension of the MIC Companies' WLNP obligations does not suspend the MIC Companies' obligation to properly route calls to numbers that have been ported from one wireless carrier to another.

C. Sprint

Sprint did not oppose MIC's request for a brief delay, until July 30, 2004, of number porting obligations. However, Sprint requested that the Commission direct the MIC Companies and Qwest to make the necessary changes to allow customers to make calls to those ported numbers no later than July 30, 2004.

Sprint also recommended that any rate issues between MIC and Qwest be considered separately from porting obligations.

D. DOC

The DOC recommended that the Commission:

- Grant the temporary stay requested by MIC of its member Companies' WLNP obligations until July 30, 2004, as permitted under Minn. Rules part 7811.2100, subp. 9.
- Require Qwest and MIC to implement, at interim rates, any transit functions necessary for MIC Companies to provide wireless LNP. If the companies cannot agree on an appropriate rate, either party can ask the Commission to set a permanent rate.
- Clarify that any suspension applies to the duty to provide wireless LNP, not to the duty to also route calls to ported numbers.

IV. Agreement on Interim Rates and Further Negotiations

At hearing Qwest and MIC agreed on the following interim rates:

- \$10.00 per month per company for rural companies; and
- \$300.00 per month per company for metro companies.

Qwest and MIC agreed that there would be no true-up of these interim rates.

Further, Qwest and MIC agreed that if they could not reach a permanent agreement after 90 days, the matter should be sent to the Office of Administrative Hearings for contested case proceedings.

V. Commission Action

The Commission will grant MIC's request for a temporary suspension of wireless LNP obligations, but only until July 30, 2004. This will allow sufficient time for the completion of the necessary technical and operational modifications to network connections between the Companies and Qwest.

The Commission will order Qwest to reconfigure its tandems to accept wireline to wireless traffic from the MIC members, as agreed to by Qwest. Further, the Commission will order interim rates of \$10 per month per rural company and \$300 per month per metro company, as agreed to by Qwest and MIC.

The Commission recognizes that the parties have been engaged in negotiations to reach agreement on the terms and conditions for the services and facilities to support wireless LNP and that the parties have requested 90 days to continue their negotiations. The Commission finds it reasonable to allow the parties 90 days from the date of this Order to reach an agreement. However, if the parties cannot reach agreement in that time, the matter will be sent to the Office of Administrative Hearings for contested case proceedings.

The issue to be sent for contested case proceedings, if the parties cannot reach agreement, will be limited to the matter of the appropriate pricing for wireless LNP traffic. To broaden the scope to include other transit services, other than wireless LNP services, would unnecessarily complicate, expand, and delay the proceedings. The Commission finds that, if it becomes necessary for the Commission to determine pricing for wireless LNP, the necessary facts can best be developed in a formal evidentiary proceeding.

The Commission agrees with the Wireless Companies and the DOC that the obligation to route calls to ported numbers is independent of the obligation to provide number portability. Granting the MIC Companies a suspension of the Companies' Wireless LNP obligation does not suspend the MIC Companies' obligation to properly route calls that have been ported from one wireless carrier to another. The Commission will clarify this by ordering that the MIC Companies properly route calls that have been ported from one wireless carrier to another.

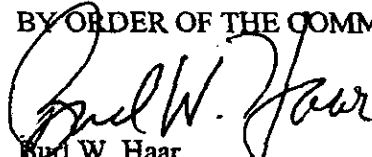
There being no objections to the Petitions to Intervene the following Petitions are granted: Sprint Corporation on behalf of its Wireless Division, Sprint Spectrum, L.P., d/b/a Sprint PCS; Rural Cellular Corporation; Midwest Wireless Communications LLC; Western Wireless Corporation; Local Access Network, LLC; C-I Communications, Inc.; and Kasson-Mantorville Telephone Company.

ORDER

1. MIC's request for suspension of its member companies' federal number portability obligations is granted only until July 30, 2004.
2. Qwest shall reconfigure its tandems to accept wireline to wireless traffic from the MIC members at the following interim rates:
 - \$10.00 per month per rural company,
 - \$300.00 per month per metro company.
3. Within 90 days of the date of this Order the parties shall make a filing with the Executive Secretary indicating whether or not they have reached agreement. If no agreement is reached, the Executive Secretary will issue a Notice and Order for Hearing referring the matter to the Office of Administrative Hearings for contested case proceedings. The matter to be sent for contested case proceedings shall be limited to the issue of the appropriate pricing for wireless LNP traffic.

4. The MIC Companies are required to properly route calls to numbers that have been ported from one wireless carrier to another.
5. The Commission grants the petitions to intervene of: Sprint Corporation on behalf of its Wireless Division, Sprint Spectrum, L.P., d/b/a Sprint PCS; Rural Cellular Corporation; Midwest Wireless Communications LLC; Western Wireless Corporation; Local Access Network, LLC; C-I Communications, Inc.; and Kasson-Mantorville Telephone Company.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION


Earl W. Haar
Executive Secretary

(SEAL)

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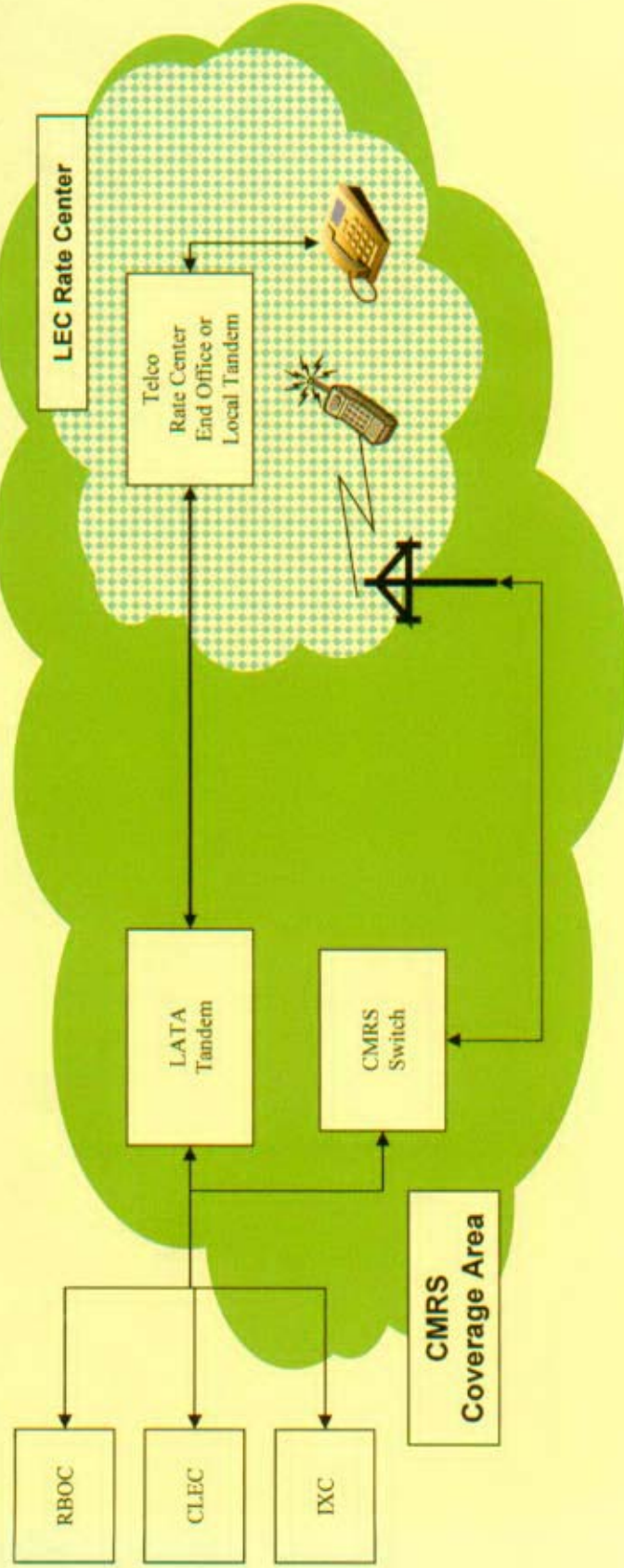
MN LECs Subtending Qwest Tandems

The following LECs have end offices which subtend the Qwest access tandem, but have one-way terminating trunks. LEC is working with Qwest to reconfigure these one-way groups as two-way groups to permit delivery of LEC WLNP ported traffic.

OCN	Name	OCN	Name
1345	ACE TELEPHONE ASSOCIATION - MINNESOTA	1423	LOWRY TELEPHONE CO.
1347	ALBANY MUTUAL TELEPHONE ASSOCIATION, INC.	1421	MABEL COOPERATIVE TELEPHONE CO. - MINNESOTA
1350	ARVIN TELEPHONE CO.	1425	CHRISTENSEN COMMUNICATIONS CO DBA MADEIRA TEL CO.
1353	CITY OF BARNESVILLE TELEPHONE UTILITY	1436	MANCHESTER - HARTLAND TELEPHONE CO.
1358	BENTON COOPERATIVE TELEPHONE CO.	1430	MELROSE TELEPHONE CO.
1357	BLACKDUCK TELEPHONE CO.	1433	MID-STATE TELEPHONE CO.
1356	BLUE EARTH VALLEY TELEPHONE CO.	1431	MIDWEST TELEPHONE CO.
1362	BRIDGE WATER TELEPHONE CO.	1437	MINNESOTA LAKE TELEPHONE CO.
1365	CALLAWAY TELEPHONE EXCHANGE	1439	MINNESOTA VALLEY TELEPHONE CO. INC.
1440	CANNON VALLEY TELECOM, INC.	1448	NEW HAM TELECOM, INC.
1370	CLARA CITY TELEPHONE EXCHANGE CO.	1500	NORTHERN TELEPHONE CO. OF MINNESOTA
1373	CONSOLIDATED TELEPHONE CO.	1448	OSAGO TELEPHONE CO.
1409	GROSSLAKE TELEPHONE CO.	1450	PARK REGION MUTUAL TELEPHONE CO.
1380	DELAWARE TELEPHONE CO.	1451	PAUL BUNYAN RURAL TELEPHONE COOPERATIVE
1381	DUNNELL TELEPHONE CO. INC.	1453	PEOPLES TELEPHONE CO. MN
1383	EAGLE VALLEY TELEPHONE CO.	1454	PINE ISLAND TELEPHONE CO.
1385	EAST OTTER TAIL TELEPHONE CO.	4300	RED RIVER RURAL TEL. ASSN. - MN
1384	EASTON TELEPHONE CO.	1474	ROTHSAY TELEPHONE CO. INC.
1386	ECKLES TELEPHONE CO.	1475	RAINSTONE TELEPHONE ASSOCIATION
1387	EMILY COOPERATIVE TELEPHONE CO.	1476	SACRED HEART TELEPHONE CO.
1388	FARMERS MUTUAL TELEPHONE CO.	1479	SCOTT RICE TEL CO. DBA INTEGRA TELECOM
1389	FEDERATED TELEPHONE COOPERATIVE	1482	SHERBURNE COUNTY RURAL TELEPHONE CO.
1403	FEDERATED UTILITIES, INC.	1677	SIX-IX VALLEY TELEPHONE CO. *
1381	FELTON TELEPHONE CO. INC.	1483	SLEEPY EYE TELEPHONE CO.
1385	GARDEN VALLEY TELEPHONE CO.	1485	SPRING GROVE COOPERATIVE TELEPHONE CO.
1386	GARDONVILLE COOPERATIVE TELEPHONE ASSN.	1487	STARRICK TELEPHONE CO.
1401	HALSTAD TELEPHONE CO.	1491	TWIN VALLEY - WAJEN TELEPHONE CO. INC.
1404	HARMONY TELEPHONE CO.	1494	UPSALA COOPERATIVE TELEPHONE ASSOCIATION
1408	HILLS TELEPHONE CO. INC. - MINNESOTA *	1495	VALLEY TELEPHONE CO.
1408	HOME TELEPHONE CO.	1501	WEST CENTRAL TELEPHONE ASSOCIATION
1409	HUTCHINSON TELEPHONE CO.	1502	WESTERN TELEPHONE CO.
1554	INTERSTATE TELECOM COOP. INC. - MINNESOTA *	1605	VINSTRUM TELEPHONE CO. INC.
1410	JOHNSON TELEPHONE CO.	1328	WINNEBAGO COOP. TELEPHONE ASSN. - MINNESOTA *
1412	KASSON & MANTORVILLE TELEPHONE CO.	1387	WINSTED TELEPHONE CO.
1414	LAKE DALE TELEPHONE CO.	1388	VINTROP TELEPHONE CO.
1418	LISMORE COOPERATIVE TELEPHONE CO.	1512	WOLVERTON TELEPHONE CO. - MN
1422	LONSDALE TELEPHONE CO. INC.	1510	WOODSTOCK TELEPHONE CO.
1443	LORETEL SYSTEMS, INC.	1515	ZUMBROTA TELEPHONE CO.

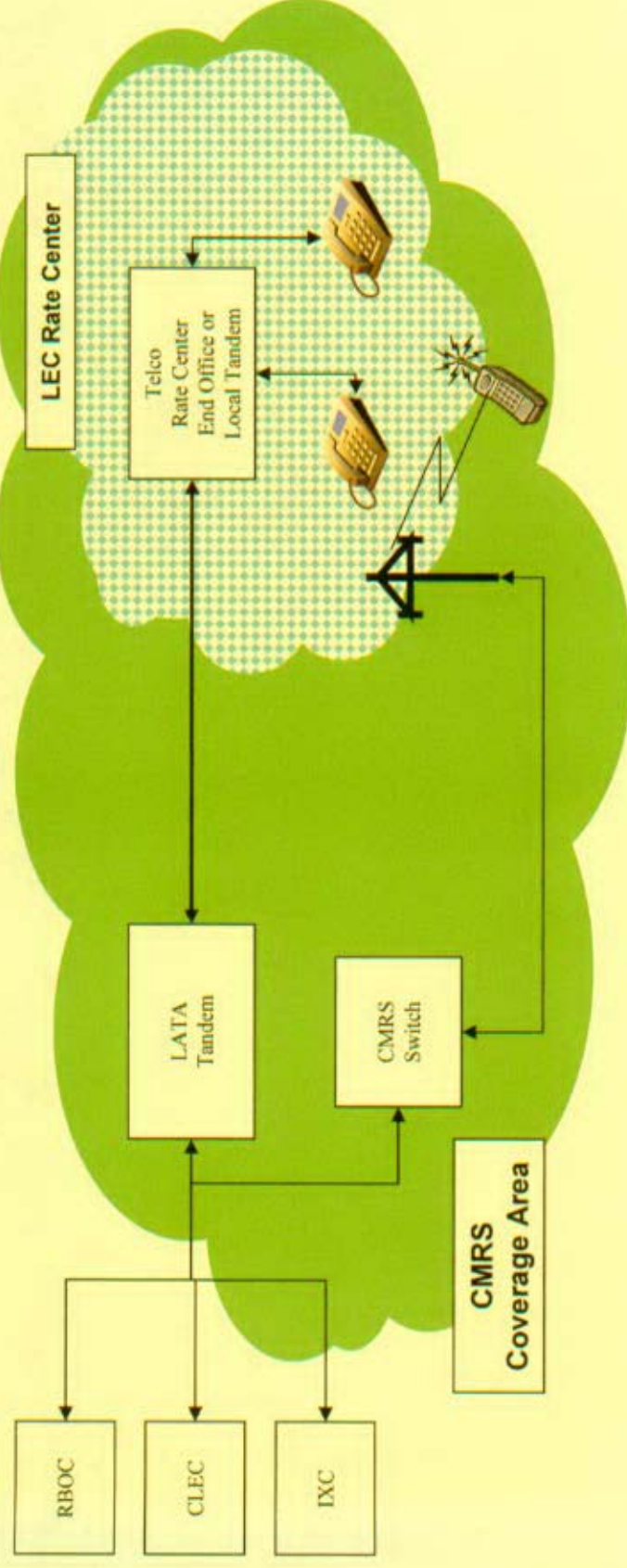
* Not included in Packet No. P.ct. 1/M-04-707

Post-Port Tandem Routing



For Demonstrative Purposes Only – Western Wireless Corporation

Pre-Port Routing



For Demonstrative Purposes Only – Western Wireless Corporation

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	File No. EB-04-IH-0012
)	
CenturyTel, Inc., CenturyTel of)	Acct. No. 200432080136
Washington, Inc., CenturyTel of Cowiche,)	
Inc., and CenturyTel of Inter Island, Inc.)	FRN Nos. 0001-5846-97, 0003-7386-89, 0001-5825-43

ORDER

Adopted: July 9, 2004

Released: July 12, 2004

By the Chief, Enforcement Bureau:

1. The Enforcement Bureau ("Bureau") has been conducting an investigation into possible violations by CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc. (collectively, "CenturyTel") of section 52.26(a) of the Commission's rules¹ by failing to route calls from CenturyTel's customers to ported wireless numbers.²

2. The Bureau and CenturyTel have negotiated the terms of a Consent Decree that would terminate the Bureau's investigation. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. We have reviewed the terms of the Consent Decree and evaluated the facts before us. We believe that the public interest would be served by approving the Consent Decree and terminating the investigation.

4. Based on the record before us we conclude that there are no substantial or material questions of fact with respect to this matter as to whether CenturyTel possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

5. Accordingly, IT IS ORDERED, pursuant to sections 4(i) and 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 503(b), and the authority

¹ 47 C.F.R. § 52.26(a).

² See *CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc.*, Notice of Apparent Liability, DA 04-1304 (rel. May 13, 2004).

delegated by sections 0.111 and 0.311 of the Commission's rules, 47 C.F.R. §§ 0.111, 0.311, that the attached Consent Decree IS ADOPTED.

6. IT IS FURTHER ORDERED that the above captioned investigation is TERMINATED and the Notice of Apparent Liability in this proceeding³ is RESCINDED.

FEDERAL COMMUNICATIONS COMMISSION



David H. Solomon
Chief, Enforcement Bureau

³ *Id.*

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	File No. EB-04-IH-0012
)	
CenturyTel, Inc., CenturyTel of)	Acct. No. 200432080136
Washington, Inc., CenturyTel of Cowiche,)	
Inc., and CenturyTel of Inter Island, Inc.)	FRN Nos. 0001-5846-97, 0003-7386-89, 0001-5825-43

CONSENT DECREE

1. The Enforcement Bureau ("Bureau") of the Federal Communications Commission ("Commission") and CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc. (collectively, "CenturyTel"), hereby enter into this Consent Decree for the purpose of terminating the Bureau's investigation into whether CenturyTel violated section 52.26(a) of the Commission's rules⁴ by failing to route calls from CenturyTel's customers to ported wireless numbers.⁵

2. For the purposes of this Consent Decree, the following definitions shall apply:

- (a) "Commission" means the Federal Communications Commission.
- (b) "Bureau" means the Enforcement Bureau of the Federal Communications Commission.
- (c) "CenturyTel" means CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc., any affiliate, d/b/a, predecessor-in-interest, parent companies, any wholly or partially owned subsidiary, or other affiliated companies or businesses and their successors and assigns.
- (d) "Parties" means CenturyTel and the Bureau.

⁴ 47 C.F.R. § 52.26(a).

⁵ See Letter from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, FCC to Glen F. Post, III, Chief Executive Officer, CenturyTel, Inc. (Feb. 4, 2004) ("Letter of Inquiry"). See also *CenturyTel, Inc., CenturyTel of Washington, Inc., CenturyTel of Cowiche, Inc., and CenturyTel of Inter Island, Inc.*, Notice of Apparent Liability, DA 04-1304 (rel. May 13, 2004) ("CenturyTel NAL").

- (e) "Order" or "Adopting Order" means an Order of the Commission or the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
- (f) "Effective Date" means the date on which the Commission or the Bureau releases the Adopting Order.
- (g) "Investigation" means the investigation commenced by the Bureau's February 4, 2004 Letter of Inquiry regarding whether CenturyTel violated section 52.26(a) of the Commission's rules in connection with failing to route calls from CenturyTel's customers to ported wireless numbers.

I. BACKGROUND

3. Number portability is defined as "the ability of users of telecommunications services to retain, at the same location, existing telephone numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another."⁶ Under the Communications Act of 1934, as amended, (the "Act"), all telecommunications carriers have a duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.⁷ In 1996, the Commission required all local exchange carriers ("LECs") to begin a phased deployment of local number portability ("LNP") within the 100 largest metropolitan statistical areas.⁸ The Commission also required all carriers to route calls to ported numbers.⁹ Furthermore, the Commission imposed requirements on the carrier immediately preceding the terminating carrier, the "N-1 carrier," to ensure that number portability databases are queried and thus that calls are properly routed.¹⁰

4. CenturyTel provides local exchange service in 22 states in rural markets and small-to-mid-sized cities, as well as long distance service, Internet access, and data services.¹¹ After receiving information that CenturyTel may not have been routing calls from CenturyTel

⁶ 47 U.S.C. § 153(30); 47 C.F.R. § 52.21(l).

⁷ 47 U.S.C. § 251(a)(2).

⁸ *Telephone Number Portability*, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996). On reconsideration, the Commission clarified that LECs need only provide number portability within the 100 largest MSAs for switches in which another carrier made a specific, bona fide, number portability request *Telephone Number Portability*, First Memorandum Opinion and Order on Reconsideration, 12 FCC Rcd 7236, 7273, ¶ 60 (1997) ("*First Reconsideration Order*").

⁹ *First Reconsideration Order*, 12 FCC Rcd at 7277, ¶ 69. See also *Telephone Number Portability*, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 18 FCC Rcd 23697, 23711-12 n.92 (2003).

¹⁰ *Telephone Number Portability*, Second Report and Order, 12 FCC Rcd 12281, 12323-24, ¶¶ 73-74 (1997).

¹¹ See www.centurytel.com.

customers in Washington to wireless customers with ported numbers, the Bureau issued a Letter of Inquiry to CenturyTel requesting information on this call routing issue. CenturyTel submitted a response to the Bureau's Letter of Inquiry on February 24, 2004.

5. On May 13, 2004, the Bureau issued a Notice of Apparent Liability for Forfeiture ("NAL")¹² proposing a \$100,000 forfeiture against CenturyTel and finding that in circumstances where CenturyTel did not have an LNP-capable switch and had a direct trunk with a porting wireless carrier, CenturyTel default-routed local and extended area service calls to the wireless carrier that originally serviced the telephone number. The NAL found that if this porting wireless carrier did not perform a database query to determine where to route the call, the CenturyTel customer would receive a message that the wireless subscriber's number was not in service, when in fact the number had been ported to another carrier.

II. AGREEMENT

6. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement of the Investigation between CenturyTel and the Bureau of the apparent violations of the Commission's rules found in the NAL, without issuance of an order finding liability against CenturyTel for any such apparent violations or any other violation of law arising out of the same facts, and that the NAL will be rescinded as of the Effective Date. In consideration for the termination of this Investigation and in accordance with the terms of this Consent Decree, CenturyTel agrees to the terms, conditions, and procedures contained herein.

7. The Parties agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance by CenturyTel with the requirements of the Act or the Commission's rules or orders. The Parties agree that this Consent Decree is for settlement purposes only.

8. CenturyTel agrees that it will make a voluntary contribution to the United States Treasury in the amount of one hundred thousand dollars (\$100,000) within 30 calendar days after the Effective Date of the Adopting Order. CenturyTel must make this payment by check, wire transfer, or money order drawn to the order of the Federal Communications Commission. The check, wire transfer, or money order should refer to "Acct. No. 200432080136" and "FRN Nos. 0001-5846-97, 0003-7386-89, 0001-5825-43." If CenturyTel makes this payment by check or money order, it must mail the check or money order to: Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois, 60673-7482. If CenturyTel makes this payment by wire transfer, it must wire such payment in accordance with Commission procedures for wire transfers.

9. For purposes of settling the matters set forth herein, CenturyTel agrees to implement a Compliance Plan related to LNP administration and consisting of the components

¹² See CenturyTel NAL.

delineated below. The Compliance Plan will be for a period of 12 months after the Effective Date, except as otherwise required to comply with the Commission's rules.

- (a) Upon execution of this Consent Decree, CenturyTel will have formed a team designated the Network Support Center ("NSC"), consisting of technical and managerial employees. The NSC will be designated as the focal point for LNP deployment over CenturyTel's system.
- (b) Within 20 days of the Effective Date, CenturyTel will designate a Local Number Portability Compliance Officer to whom all inquiries and concerns about LNP and call routing may be addressed. The Local Number Portability Compliance Officer will supervise CenturyTel's compliance with the Commission's rules and the requirements regarding LNP and CenturyTel's compliance with the requirements of this Consent Decree.
- (c) Upon execution of this Consent Decree, CenturyTel will have deployed LNP capability to all 398 of its host switches throughout its 22 state territory.
- (d) Upon execution of this Consent Decree, company-wide on all 398 of its host switches and whenever CenturyTel is the N-1 carrier, CenturyTel will perform or will have performed on its behalf, a database query to obtain the Location Routing Number ("LRN") that corresponds to any dialed number. Whenever it is the N-1 carrier, CenturyTel will ensure that any call placed by a CenturyTel customer to a ported telephone number is properly routed to the network of the current carrier serving that telephone number, based on the LRN.
- (e) CenturyTel will ensure that any switch added to CenturyTel's system after the Effective Date is LNP capable within a reasonable period of time following CenturyTel's acquisition of that switch. If a switch is added to CenturyTel's system that is not LNP capable, CenturyTel will ensure that whenever CenturyTel is the N-1 carrier CenturyTel will perform or will have performed on its behalf a database query to obtain LRN information in order to ensure that calls placed by CenturyTel customers to ported telephone numbers are properly routed to the network of the current carrier serving that telephone number, based on the LRN.
- (f) Prior to September 1, 2004, in certain instances CenturyTel will have a third party perform certain LRN database queries as described in paragraph 9(d). After September 1, 2004, CenturyTel will implement its own local service management system ("LSMS") to perform database queries.
- (g) Upon execution of this Consent Decree, CenturyTel will have developed written rules and policies regarding the LNP ordering process, including a customer service representative handbook, and materials for public relations teams to prepare them to answer LNP questions from consumers.

- (h) Upon execution of this Consent Decree, CenturyTel will have incorporated LNP compliance training into its existing training for employees who engage in LNP activities, including but not limited to customer service representatives, public relations department employees, and engineering group employees. Training sessions will be conducted for new employees within the first 90 days of employment.
- (i) Upon execution of this Consent Decree, CenturyTel will have established specific policies and procedures for handling LNP-related complaints, including complaints about dropped calls to ported numbers. Specifically, CenturyTel's policies will require a customer service center representative who receives a complaint regarding LNP to prepare a trouble ticket and dispatch it to the central office serving the complaining CenturyTel customer to verify it is LNP-related. If so, the central office will send the trouble ticket to the NSC for resolution with a copy to the Local Number Portability Compliance Officer. The NSC will work to resolve the problem as soon as practicable. If the matter is not resolved within 48 hours, the Local Number Portability Compliance Officer will be notified and will become the primary party responsible for resolving the matter. The customer will be kept apprised within a reasonable time of all efforts to resolve the matter.
- (j) CenturyTel will not avail itself of any suspension or modification of the Commission's LNP requirements granted to CenturyTel prior to the Effective Date pursuant to any application for relief from a state public service commission.

10. In express reliance on the covenants and representations contained herein, the Bureau agrees to terminate the Investigation.

11. The Bureau agrees that it will not use the facts developed in this Investigation through the Effective Date of the Consent Decree or the existence of this Consent Decree to institute, on its own motion, any new proceeding, formal or informal, or take any action on its own motion against CenturyTel concerning the matters that were the subject of the Investigation. The Bureau also agrees that it will not use the facts developed in this Investigation through the Effective Date of this Consent Decree or the existence of this Consent Decree to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against CenturyTel with respect to CenturyTel's basic qualifications, including its character qualifications, to be a Commission licensee or authorized common carrier. Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to section 208 of the Act against CenturyTel or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating material new evidence of noncompliance by CenturyTel of the Act, the rules, or this Order.

12. CenturyTel waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order adopting this Consent Decree, provided the Bureau issues an Order adopting the Consent Decree without change, addition, modification, or deletion. CenturyTel shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein.

13. CenturyTel's decision to enter into this Consent Decree is expressly contingent upon the Bureau's issuance of an Order that is consistent with this Consent Decree, and which adopts the Consent Decree without change, addition, modification, or deletion.

14. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

15. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither CenturyTel nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and CenturyTel shall waive any statutory right to a trial *de novo*. CenturyTel shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein.

16. Any violation of the Consent Decree or the Adopting Order will constitute a separate violation of a Commission order, entitling the Commission to exercise any rights or remedies authorized by law attendant to the enforcement of a Commission order.

17. The Parties also agree that if any provision of the Consent Decree conflicts with any subsequent rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which CenturyTel does not consent) that provision will be superseded by such Commission rule or order.

18. CenturyTel hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

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Federal Communications Commission

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19. This Consent Decree may be signed in counterparts.

David H. John

David H. Solomon
Chief, Enforcement Bureau
Federal Communications Commission

July 9, 2004
Date

Date: _____

W. W. Golf

Stacey W. Goff
General Counsel of CenturyTel, Inc.
CenturyTel, Inc., CenturyTel of
Washington, Inc., CenturyTel of Cowiche,
Inc., and CenturyTel of Inter Island, Inc.

Date _____