

Exhibit No.:
Issues: Modification of LNP
Requirements
Witness: Natelle Dietrich
Sponsoring Party: MO PSC Staff
Type of Exhibit: Rebuttal Testimony
Case No.: TO-2004-0504 &
TO-2004-0505
Date Testimony Prepared: July 2, 2004

MISSOURI PUBLIC SERVICE COMMISSION

UTILITY OPERATIONS DIVISION

REBUTTAL TESTIMONY

OF

NATELLE DIETRICH

**CASS COUNTY TELEPHONE COMPANY
AND CRAW-KAN TELEPHONE COOPERATIVE, INC.**

CASE NOS. TO-2004-0504 & TO-2004-0505

**Jefferson City, Missouri
July 2004**

Exhibit No. 11
Case No(s) TO-2004-0504 TO-2004-0505
Date 7/22/04 **Rptr** SKM

FILED²
AUG 11 2004

Missouri Public
Service Commission

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

In the Matter of the Petition of Cass)
County Telephone Company for)
Suspension and Modification of the FCC's)
Requirement to Implement Number)
Portability)

Case No. TO-2004-0504

In the Matter of the Petition of Craw-Kan)
Telephone Cooperative, Inc. for)
Suspension and Modification of the FCC's)
Requirement to Implement Number)
Portability)

Case No. TO-2004-0505

AFFIDAVIT OF NATELLE DIETRICH

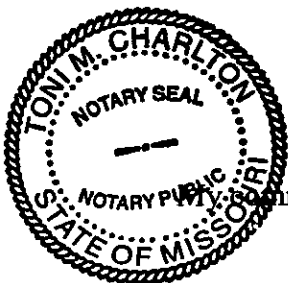
STATE OF MISSOURI)
) ss
COUNTY OF COLE)

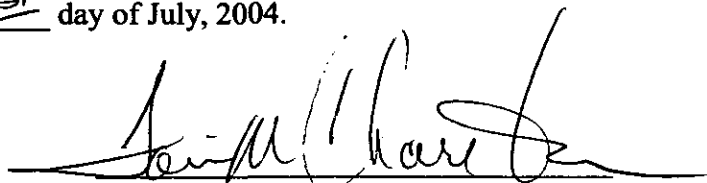
Natelle Dietrich, of lawful age, on her oath states: that she has participated in the preparation of the following Rebuttal Testimony in question and answer form, consisting of 8 pages of Rebuttal Testimony to be presented in the above case, that the answers in the following Rebuttal Testimony were given by her; that she has knowledge of the matters set forth in such answers; and that such matters are true to the best of her knowledge and belief.



Natelle Dietrich

Subscribed and sworn to before me this 15th day of July, 2004.





Notary Public

TONI M. CHARLTON
NOTARY PUBLIC STATE OF MISSOURI
COUNTY OF COLE
My Commission Expires December 28, 2004

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15 A. My name is Natelle Dietrich. I am employed by the Missouri Public
16 Service Commission (Commission), 200 Madison Street, Jefferson City, Missouri,
17 65101.

A. I am employed as a supervisor and regulatory economist for the Telecommunications Department Staff (Staff) of the Commission. My duties include the review and analysis of cost studies and the application of general costing theory as it relates to the regulation of telecommunications services with supervisory responsibility to ensure thorough and complete economic analysis of telecommunications issues by the economic/competitive analysis Staff. I have previously testified or filed affidavits in Case Nos. TA-99-405, an analysis of the appropriateness of a "payday loan" company providing prepaid telecommunications service; TO-2001-455, the AT&T/Southwestern Bell Telephone Company (SWBT) arbitration, which included issues associated with unbundled network elements; TO-2001-222, the MCI/SWBT arbitration, which also included issues related to unbundled network elements; TR-2002-251, Sprint's price cap

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1 adjustments; and TO-2004-0370, IO-2004-0467, TO-2004-0505 et al., the present LNP
2 suspension/modification cases. I have also prepared comments and testified in several
3 proposed rulemakings before the Commission.

4 As supervisor of the Telecommunications Department economic/competitive
5 analysis group, I have reviewed many cost studies and have had testimony prepared at
6 my direction and under my supervision on many cost related dockets including, but not
7 limited to TO-2001-437, TO-2001-438 and TO-2001-440 (the SWBT 271 "spin-off
8 cases); TR-2001-65, an investigation into the cost of providing switched access service in
9 Missouri; TO-2001-455, the AT&T/SWBT arbitration; TO-2001-222, the MCI/SWBT
10 arbitration; and, TO-2004-0207, the Triennial Review Order proceeding.

11 Through an appointment to the National Association of Regulatory Utility
12 Commissioners Staff Subcommittee on Telecommunications and as Assistant Chair to the
13 Federal Regulatory Policy Sub-Group, I am responsible for monitoring federal
14 telecommunications activity and informing the Commission of relevant federal activity. I
15 have prepared comments on behalf of the Commission to be filed at the Federal
16 Communications Commission (FCC) on several occasions. These comments included
17 such issues as the Coalition for Affordable Local and Long Distance Service's (CALLS)
18 modified access charge reform proposal; the Multi-Association Group's ("MAG")
19 interstate access reform and universal service support proposal for incumbent local
20 exchange carriers subject to rate-of-return regulation; and, the feasibility of a bill-and-
21 keep approach as means of attaining a unified regime for the flows of payments between
22 carriers. I have also prepared congressional testimony on behalf of the Commission on
23 number conservation efforts in Missouri.

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1 I also worked for over 13 years in lending, analyzing customer credit, financial
2 histories and payment capabilities of individuals and businesses. The last five plus years
3 were spent working in the risk asset unit where I was responsible for and successful in
4 reducing the bank's risk exposure by several million dollars per year through
5 restructuring high-risk customer debt using means that continue to meet the customer's
6 financial needs and payment abilities.

7 Q. Please describe your educational background.

8 A. I hold a Bachelor of Arts Degree in English from the University of
9 Missouri-St. Louis and a Master's Degree in Business Administration from
10 William Woods University.

11 Q. Are you the same Natelle Dietrich that provided testimony during the
12 May 5, 2004, local number portability on-the-record-presentation in Case Nos.
13 TO-2004-0370, IO-2004-0467, TO-2004-0505, et al.?

14 A. Yes I am.

15 Q. What is the purpose of your pre-filed testimony?

16 A. The purpose of my testimony is to respond to the testimony of Robert C.
17 Schoonmaker on behalf of Cass County Telephone Co. (Cass) and Craw-Kan
18 (Craw-Kan) Telephone Cooperative, Inc (collectively, companies) and to support the
19 companies' Petitions for suspension and modification of the Federal Communications
20 Commission's (FCC) requirements that local exchange carriers implement local number
21 portability (LNP).

22 Q. What is the issue in these cases?

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Natelle Dietrich

1 A. The issue in these cases is whether the Commission should grant Cass and
2 Craw-Kan a modification of the FCC's intermodal porting requirements.

3 Q. Do you agree with the various statements and assertions in
4 Mr. Schoonmaker's Testimony as to the potential harm of implementing the intermodal
5 porting requirements absent a modification of the FCC's rules?

6 A. Yes I do. As Mr. Schoonmaker points out in his Testimony on page 15,
7 beginning at line 20, the FCC noted that rating and routing issues were being addressed in
8 other proceedings and would not be addressed in its November 10, 2003, Memorandum
9 Opinion and Order and Further Notice of Proposed Rulemaking (Order).

10 Q. What are the possible implications of the FCC directing intermodal
11 porting prior to addressing the rating and routing issues?

12 A. Cass and Craw-Kan have intrastate tariffs on file with the Missouri Public
13 Service Commission. These tariffs outline the companies' local service area.
14 Transporting calls to numbers that have been ported to a wireless carrier with no point of
15 presence in the Cass or Craw-Kan local service area could result in the carriers
16 inappropriately operating much like an interexchange carrier instead of a local exchange
17 carrier. Further, as Mr. Schoonmaker states on page 16, lines 18 and 19 of his
18 Testimony, the company and/or its customers' may suffer economic harm as a result of
19 the intermodal porting requirements absent a modification.

20 Q. Are you suggesting it should be the responsibility of the wireless carrier,
21 in this case, Western Wireless, to bear the transport costs associated with intermodal
22 porting?

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1 A. No, I am not. In its Order, the FCC clearly mandated that intermodal
2 porting should have been implemented by May 24, 2004. Further, in its Third Report and
3 Order, issued May 1998, the FCC established local number portability (LNP) cost
4 recovery mechanisms allowing incumbent local exchange carrier to recover the costs
5 associated with implementing LNP from its end users. In their petitions, the companies
6 indicated they would be LNP capable by the May 24, 2004, deadline, and by design these
7 companies can recover the implementation costs from their customers if they so choose.
8 However, as previously indicated, the FCC left unresolved issues associated with rating
9 and routing calls once a number has ported, creating additional economic issues
10 associated with intermodal porting. In order to complete calls to ported numbers, a
11 company must either build facilities or establish business arrangements with other
12 carriers such as Southwestern Bell Telephone, L.P., d/b/a SBC Missouri or Sprint
13 Missouri, Inc. Mr. Schoonmaker, on Page 19 of his Testimony, estimates negotiations
14 could cost Cass or Craw-Kan between \$20,000 and \$100,000 or more depending on
15 whether issues were resolved or required arbitrations. While I have no personal
16 knowledge as to the validity of the cost estimates or costs associated with deploying
17 additional facilities to accommodate transporting ported calls, I agree the costs could be
18 substantial.

19 Q. Are you recommending the Commission order wireless carriers, including
20 Western Wireless, to establish a point of presence in the Cass and Craw-Kan service
21 territories?

22 A. No, I am not. My recommendation is that the Commission find that the
23 companies and/or their end user subscribers are not responsible for establishing facilities

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1 or business relationships to transport ported calls. This recommendation would allow the
2 wireless carriers to determine the appropriate method for transporting calls.

3 Q. Would any arrangements as a result of modifications ordered by the
4 Commission be permanent arrangements?

5 A. No. As previously noted, the FCC stated that it would address the rating
6 and routing issues in other pending dockets. In its Recommendations filed April 12,
7 2004, Staff recommended the Commission grant a modification and authorize the carriers
8 to establish an intercept message only until such time as the FCC addresses the rating and
9 routing issues. The Staff Recommendations are incorporated and attached as Exhibit A.

10 Q. Does Staff have any changes to its Recommendations?

11 A. Yes it does. On page 26, lines 21 to 22 of his Testimony,
12 Mr. Schoonmaker recommends the modification remain in place for a period of six
13 months after a final FCC determination of the party responsible for such transport
14 service. In its June 24, 2004 Order, the Commission, in Case No. TO-2004-0455, granted
15 Mid-Missouri Telephone Company a modification of the FCC's local number portability
16 requirements for small rural local exchange carriers until the FCC further addresses the
17 rating and routing issues associated with porting number and ordered the parties to notify
18 the Commission 10 days from the date the FCC issues any further decisions addressing
19 the rating and routing issues associated with porting numbers. The Commission has
20 issued similar orders in other cases. Staff suggests this notification would be appropriate
21 for Cass and Craw-Kan also.

22 Q. Do you have reason to believe that Western Wireless would support a
23 temporary modification as discussed in your testimony and Staff's Recommendation?

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1 A. Yes. In the on-the-record presentation, Mr. William Steinmeyer, counsel
2 for Western Wireless said, "I would just point out -- and I don't know if this is the -- if
3 this is the proper forum for doing it, but as we sit here and listen to the discussion on
4 Western Wireless's point of view, we would be willing to pay for land-to-mobile
5 transport on an interim basis if it helped move LNP [a]long at SBC transit rates assuming
6 the telecoms could make the necessary arrangements." (Pages 115-116 of the transcript.)

7 Q. Beginning on page 25 of his Testimony, Mr. Schoonmaker discusses Cass
8 exchanges within the Metropolitan Calling Area (MCA) and the potential for the
9 Commission to order bill and keep as the means for establishing the necessary business
10 arrangements for transporting ported numbers in the MCA. Should the Commission
11 address this issue in these proceedings?

12 A. No. The Commission established the MCA Task Force for the purpose of
13 examining whether, and if so, what type of changes should be made to the MCA Plans
14 and to calling scopes in general. In its Order Appointing Task Force Members and
15 Scheduling Meeting, the Commission asked the Task Force to evaluate the impact of
16 local number portability and the MCA. Since the Task Force is to review this issue, that
17 is the appropriate forum for addressing issues related to local number portability and the
18 MCA.

19 Q. Please summarize your recommendation?

20 A. I am recommending the Commission grant the Cass and Craw-Kan
21 requests for modification to address call rating and routing issues pursuant to Section 251
22 (f)(2)(A)(i) and (B) of the Telecommunications Act of 1996. I recommend the
23 Commission effectuate that approval by affirmatively stating in its order that neither the

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Natelle Dietrich

1 companies, nor their customers, will be responsible for any transport or long distance
2 charges associated with porting numbers and any associated calls outside companies'
3 local service area. Staff recommends this modification be a conditional modification
4 until such time as the FCC further addresses the rating and routing issues associated with
5 porting numbers and that the companies' notify the Commission 10 days from the date
6 the FCC further addresses the rating and routing issues. Staff also recommends the
7 Commission authorize companies to block seven-digit dialed calls to ported numbers
8 where the facilities and/or appropriate third party arrangements have not been established
9 (i.e., block calls that would appear to be local, but in fact are long distance calls).
10 Finally, Staff recommends the Commission direct companies to establish an intercept
11 message once the first number is ported so that remaining subscribers are informed of any
12 call rating and routing issues associated with completing a call to a ported number. Such
13 message could be similar to the following text: "The number you are calling has been
14 ported to another carrier. That carrier has not made arrangements to complete the call as
15 dialed."

16 Q. Does this end your testimony?

17 A. Yes it does.

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Tariff File No. n/a Case No. TO-2004-0504

From: Natelle Dietrich
Telecommunications Department

John Van Eschen 4-08-04
Utility Operations Division/Date

/s/ William K. Haas 04/12/04
General Counsel's Office/Date

Subject: Staff Recommendation on Petition for Suspension and Modification of
Local Number Portability Obligations and Motion for Expedited Treatment

Date: April 7, 2004

On April 5, 2004, Cass County Telephone Company (Cass County), an incumbent local exchange carrier, filed a Petition for Suspension and Modification and Motion for Expedited Treatment (Petition).

Background

Section 251(b) of the Telecommunications Act (Act) requires local exchange carriers to provide local number portability (LNP), to the extent technically feasible, in accordance with requirements prescribed by the FCC. Local number portability is defined as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another." In 1996, the FCC released the Local Number Portability *First Report and Order*¹, noting that "section 251(b) requires local exchange carriers to provide number portability to all telecommunications carriers, and thus to Commercial Mobile Radio Service (CMRS) providers as well as wireline service providers."² The FCC concluded that "the public interest is served by requiring the provision of number portability by CMRS providers because number portability will promote competition between providers of local telephone services and thereby promote competition between providers of interstate access services."³

In 1997, the FCC adopted recommendations for wireline-to-wireline number portability, limiting porting, due to technical limitations, to carriers with facilities or numbering resources in the same rate center. At the same time, the FCC directed the North American Numbering Council (NANC) to develop standards and procedures to provide for wireless carrier participation in local number portability.

¹ Telephone Number Portability, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996).

² Id. at para. 152.

³ Id. at para. 153.

In 1998, the NANC submitted a report on the technical issues associated with wireless-to-wireline porting. The report discussed such issues as: the differences between the local service areas of wireless and wireline carriers and the differences in associating a subscriber's number to a particular rate center. Because of the differences noted in the report, the NANC indicated that if a wireless subscriber, with an NPA-NXX outside of the wireline rate center where the subscriber is located, seeks to port his or her number to a wireline carrier, that wireline carrier may not be able to receive the ported number. Additional reports were issued in subsequent years.

On January 23, 2003, and again on May 13, 2003, the Cellular Telecommunication and Internet Association (CTIA) filed petitions with the FCC seeking a declaratory ruling that wireline carriers have an obligation to port their customers' numbers to wireless carriers whose service areas overlap the wireline rate center that is associated with the number. In its petitions, CTIA claims, "some LECs have narrowly construed their LNP obligations with regard to wireless carriers, taking the position that portability is only required where the wireless carrier receiving the number already has a point of presence or numbering resources in the wireline rate center."⁴ In response to these petitions, on November 10, 2003, the FCC released its Memorandum Opinion and Order and Further Notice of Proposed Rulemaking (Opinion). In its Opinion, the FCC established a May 24, 2004 deadline by which "LECs [outside the top 100 MSAs] 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, provided that the porting-in carrier maintains the number's original rate center designation following the port."⁵

Cass County's Petition

Cass County requests that the Missouri Public Service Commission grant a suspension and modification of the FCC's LNP requirements to address call rating and call routing issues discussed more fully below. Cass County further requests a Commission decision on or before April 30, 2004. However, if the Commission is not able to issue a decision by April 30, 2004, Cass County requests a suspension of at least six-months after the effective date of the Commission's order.

Cass County states that according to 47 U.S.C. §251(f)(2), a rural local exchange carrier with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide can petition a state commission for a suspension or modification of the application of requirements found in Section 251(b) and (c). The FCC Opinion requires the petitioning carrier to provide substantial, credible evidence that there are special circumstances to justify the suspension and Section 251(f)(2) states:

The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification –

⁴ CTIA Petition for Declaratory Ruling, CC Docket No. 95-116, filed Jan. 23, 2003.

⁵ *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, November 10, 2003 at para. 22.

- (A) is necessary –
 - i. to avoid a significant adverse economic impact on users of telecommunications services generally;
 - ii. to avoid imposing a requirement that is unduly economically burdensome; or
 - iii. to avoid imposing a requirement that is technically infeasible; and
- (B) is consistent with the public interest, convenience, and necessity.

Staff offers the following analysis of the Petition to assist the Commission in making its determination under Section 251(f)(2).

Request for Suspension and Modification

In its Petition, Cass County states it plans to have its switches LNP capable by the May 24, 2004 deadline. However, Cass County seeks suspension and modification of the FCC's LNP requirements to address call rating and routing issues associated with transporting wireline/wireless ported calls. In Paragraph 7 of its Petition, Cass County notes that the FCC's Opinion did not require wireless carriers to port numbers to wireline carriers, creating a situation where wireless carriers are not required to "shoulder the reciprocal burden" of LNP.

As Cass County points out, the FCC has recognized there may be problems with routing and rating calls for small rural LECs, but the FCC has not yet addressed the issue. In its Opinion, the FCC "recognize[d] the concerns of these carriers, but [found] that they are outside the scope of this order... We make no determination, however, with respect to routing of ported numbers, because the requirements of our LNP rules do not vary depending on how calls to the number will be routed after the port occurs. Moreover, as CTIA notes, the rating and routing issues raised by the rural wireline carriers have been raised in the context of non-ported numbers and are before the Commission in other proceedings."⁶

Cass County has defined local exchange boundaries, with no apparent wireless point of presence within those boundaries. Therefore, facilities would have to be built or arrangements would have to be negotiated with third party transiting carriers such as Southwestern Bell Telephone Company to complete calls once end users port their landline number to a wireless carrier. Attachment A is representative of this arrangement.

Put simply, in today's environment, two Cass County customers, Neighbor "Smith" and Neighbor "Jones", can call each other from their wireline numbers as part of their **local** calling scope. If Neighbor "Jones" ports his wireline number to Big National Wireless Corp., which has no apparent presence within the Cass County calling scope, Neighbor "Smith" may incur **long distance charges** to call the previously local number of now-wireless Neighbor "Jones". Since Neighbor "Smith" continues to call the same 7-digit local number he always called without knowing his neighbor ported, he may not know

⁶ *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, November 10, 2003 at para 40.

long distance charges were incurred until such time as he receives his local telephone bill from Cass County.

In paragraph 11 of its Petition, Cass County seeks suspension and modification such that once LNP capability is achieved, Cass County would notify the wireless carrier that it was fully LNP capable, but that if the wireless carrier(s) want calls transported to a point outside Cass County's local service area, the wireless carrier(s) will need to either establish facilities and/or make arrangements with third party carriers to transport the ported number and any associated calls.

Adverse Economic Impact on Users of Telecommunications Services

Cass County recognizes it will be able to recover implementation and ongoing monthly costs through a charge on customers. However, it states that if the Commission does not grant the suspension and modification, then Cass County will be forced to recover transport costs from its end users, thus, defying the principle of placing costs on the cost causer. Cass County states the economic burden is significant since its end users will already incur implementation and on-going costs and since few of its subscribers are expected to take advantage of the wireline/wireless porting ability.

Unduly Economically Burdensome

Cass County states that requiring it to deliver calls outside of its exchange boundaries would impose a substantial burden because it would be forced to divert limited capital resources from the provision of reliable, high-quality services. Cass County states the requirement would force it to provide service outside its certificated service area. Finally, Cass County states requiring wireline/wireless LNP is uneconomical because it requires Cass County to devote limited resources for a small number of subscribers to port rather than applying those funds to upgrade infrastructure that will benefit a large number of subscribers.

Public Interest

Cass County claims the suspension and modification will ensure subscribers are not forced to bear significant costs while receiving little benefit. Cass County also states modification will prevent it from incurring costs before the call rating and routing issues are addressed by the FCC. Finally, Cass County states suspension benefits the public interest because it allows Petitioners to use resources in a manner that will benefit the entire subscriber base in the future.

Recommendation

Staff recommends the Commission approve Cass County's request for modification to address call rating and routing issues as identified in paragraph 11 of its Petition pursuant to Section 251 (f)(2)(A)(i) and (B). Staff recommends the Commission effectuate that approval by affirmatively stating in its order that neither Cass County, nor its wireline customers, will be responsible for any transport or long distance charges associated with porting numbers and any associated calls outside Cass County's local service area. Once Cass County receives the modification, it would be able to notify wireless carriers that it was not the responsibility of Cass County to establish facilities and/or arrangements with

third party carriers to transport calls to a point outside of its local serving area. Staff recommends this modification be a conditional modification until such time as the FCC further addresses the rating and routing issues associated with porting numbers.

Staff also recommends the Commission authorize Cass County to block seven-digit dialed calls to ported numbers where the facilities and/or appropriate third party arrangements have not been established (i.e., block calls that would appear to be local, but in fact are long distance calls). Finally, Staff recommends the Commission direct Cass County to establish an intercept message once the first number is ported so that remaining Cass County subscribers are informed of any call rating and routing issues associated with completing a call to a ported number. Such message could be similar to the following text: "The number you are calling has been ported to another carrier. That carrier has not made arrangements to complete the call as dialed."

Since Staff recommends approval of the modification request, which addresses the call rating and routing issues, Staff recommends the Commission deny Cass County's request for suspension. Further, since Cass County states it will be LNP capable by the May 24, 2004, deadline, there is no reason for the Commission to grant a six-month suspension of the requirements.

☒ The Company is not delinquent in filing an annual report and paying the PSC assessment.

☐ The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.

(☐ No annual report ☐ Unpaid PSC assessment. Amount owed:)

MEMORANDUM

To: Missouri Public Service Commission Official Case File
Tariff File No. n/a Case No. TO-2004-0505

From: Natelle Dietrich
Telecommunications Department

John Van Eschen 4-8-04
Utility Operations Division/Date

/s/ William K. Haas 04/12/04
General Counsel's Office/Date

Subject: Staff Recommendation on Petition for Suspension and Modification of
Local Number Portability Obligations and Motion for Expedited Treatment

Date: April 7, 2004

On April 6, 2004, Craw-Kan Telephone Cooperative, Inc. (Craw-Kan), an incumbent local exchange carrier, filed a Petition for Suspension and Modification and Motion for Expedited Treatment (Petition).

Background

Section 251(b) of the Telecommunications Act (Act) requires local exchange carriers to provide local number portability (LNP), to the extent technically feasible, in accordance with requirements prescribed by the FCC. Local number portability is defined as "the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability or convenience when switching from one telecommunications carrier to another." In 1996, the FCC released the Local Number Portability *First Report and Order*¹, noting that "section 251(b) requires local exchange carriers to provide number portability to all telecommunications carriers, and thus to Commercial Mobile Radio Service (CMRS) providers as well as wireline service providers."² The FCC concluded that "the public interest is served by requiring the provision of number portability by CMRS providers because number portability will promote competition between providers of local telephone services and thereby promote competition between providers of interstate access services."³

In 1997, the FCC adopted recommendations for wireline-to-wireline number portability, limiting porting, due to technical limitations, to carriers with facilities or numbering resources in the same rate center. At the same time, the FCC directed the North American Numbering Council (NANC) to develop standards and procedures to provide for wireless carrier participation in local number portability.

¹ Telephone Number Portability, CC Docket No. 95-116, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8352 (1996).

² Id. at para. 152.

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In 1998, the NANC submitted a report on the technical issues associated with wireless-to-wireline porting. The report discussed such issues as: the differences between the local service areas of wireless and wireline carriers and the differences in associating a subscriber's number to a particular rate center. Because of the differences noted in the report, the NANC indicated that if a wireless subscriber, with an NPA-NXX outside of the wireline rate center where the subscriber is located, seeks to port his or her number to a wireline carrier, that wireline carrier may not be able to receive the ported number. Additional reports were issued in subsequent years.

On January 23, 2003, and again on May 13, 2003, the Cellular Telecommunication and Internet Association (CTIA) filed petitions with the FCC seeking a declaratory ruling that wireline carriers have an obligation to port their customers' numbers to wireless carriers whose service areas overlap the wireline rate center that is associated with the number. In its petitions, CTIA claims, "some LECs have narrowly construed their LNP obligations with regard to wireless carriers, taking the position that portability is only required where the wireless carrier receiving the number already has a point of presence or numbering resources in the wireline rate center."⁴ In response to these petitions, on November 10, 2003, the FCC released its Memorandum Opinion and Order and Further Notice of Proposed Rulemaking (Opinion). In its Opinion, the FCC established a May 24, 2004 deadline by which "LECs [outside the top 100 MSAs] 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, provided that the porting-in carrier maintains the number's original rate center designation following the port."⁵

Craw-Kan's Petition

Craw-Kan requests that the Missouri Public Service Commission grant a suspension and modification of the FCC's LNP requirements to address call rating and call routing issues discussed more fully below. Craw-Kan further requests a Commission decision on or before April 30, 2004. However, if the Commission is not able to issue a decision by April 30, 2004, Craw-Kan requests a suspension of at least six-months after the effective date of the Commission's order.

Craw-Kan states that according to 47 U.S.C. §251(f)(2), a rural local exchange carrier with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide can petition a state commission for a suspension or modification of the application of requirements found in Section 251(b) and (c). The FCC Opinion requires the petitioning carrier to provide substantial, credible evidence that there are special circumstances to justify the suspension and Section 251(f)(2) states:

The State commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification –

⁴ CTIA Petition for Declaratory Ruling, CC Docket No. 95-116, filed Jan. 23, 2003.

⁵ *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, November 10, 2003 at para. 22.

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 - ii. to avoid imposing a requirement that is unduly economically burdensome; or
 - iii. to avoid imposing a requirement that is technically infeasible; and
- (B) is consistent with the public interest, convenience, and necessity.

Staff offers the following analysis of the Petition to assist the Commission in making its determination under Section 251(f)(2).

Request for Suspension and Modification

In its Petition, Craw-Kan states it plans to have its switches LNP capable by the May 24, 2004 deadline. However, Craw-Kan seeks suspension and modification of the FCC's LNP requirements to address call rating and routing issues associated with transporting wireline/wireless ported calls. In Paragraph 7 of its Petition, Craw-Kan notes that the FCC's Opinion did not require wireless carriers to port numbers to wireline carriers, creating a situation where wireless carriers are not required to "shoulder the reciprocal burden" of LNP.

As Craw-Kan points out, the FCC has recognized there may be problems with routing and rating calls for small rural LECs, but the FCC has not yet addressed the issue. In its Opinion, the FCC "recognize[d] the concerns of these carriers, but [found] that they are outside the scope of this order... We make no determination, however, with respect to routing of ported numbers, because the requirements of our LNP rules do not vary depending on how calls to the number will be routed after the port occurs. Moreover, as CTIA notes, the rating and routing issues raised by the rural wireline carriers have been raised in the context of non-ported numbers and are before the Commission in other proceedings."⁶

Craw-Kan has defined local exchange boundaries, with no apparent wireless point of presence within those boundaries. Therefore, facilities would have to be built or arrangements would have to be negotiated with third party transiting carriers such as Southwestern Bell Telephone Company to complete calls once end users port their landline number to a wireless carrier. Attachment A is representative of this arrangement.

Put simply, in today's environment, two Craw-Kan customers, Neighbor "Smith" and Neighbor "Jones", can call each other from their wireline numbers as part of their **local** calling scope. If Neighbor "Jones" ports his wireline number to Big National Wireless Corp., which has no apparent presence within the Craw-Kan calling scope, Neighbor "Smith" may incur **long distance charges** to call the previously local number of now-wireless Neighbor "Jones". Since Neighbor "Smith" continues to call the same 7-digit local number he always called without knowing his neighbor ported, he may not know

⁶ *In the Matter of Telephone Number Portability*, CC Docket No. 95-116, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, November 10, 2003 at para 40.

long distance charges were incurred until such time as he receives his local telephone bill from Craw-Kan.

In paragraph 12 of its Petition, Craw-Kan seeks suspension and modification such that once LNP capability is achieved, Craw-Kan would notify the wireless carrier that it was fully LNP capable, but that if the wireless carrier(s) want calls transported to a point outside Craw-Kan's local service area, the wireless carrier(s) will need to either establish facilities and/or make arrangements with third party carriers to transport the ported number and any associated calls.

Adverse Economic Impact on Users of Telecommunications Services

Craw-Kan recognizes it will be able to recover implementation and ongoing monthly costs through a charge on customers. However, it states that if the Commission does not grant the suspension and modification, then Craw-Kan will be forced to recover transport costs from its end users, thus, defying the principle of placing costs on the cost causer. Craw-Kan states the economic burden is significant since its end users will already incur implementation and on-going costs and since few of its subscribers are expected to take advantage of the wireline/wireless porting ability.

Unduly Economically Burdensome

Craw-Kan states that requiring it to deliver calls outside of its exchange boundaries would impose a substantial burden because it would be forced to divert limited capital resources from the provision of reliable, high-quality services. Craw-Kan states the requirement would force it to provide service outside its certificated service area. Finally, Craw-Kan states requiring wireline/wireless LNP is uneconomical because it requires Craw-Kan to devote limited resources for a small number of subscribers to port rather than applying those funds to upgrade infrastructure that will benefit a large number of subscribers.

Public Interest

Craw-Kan claims the suspension and modification will ensure subscribers are not forced to bear significant costs while receiving little benefit. Craw-Kan also states modification will prevent it from incurring costs before the call rating and routing issues are addressed by the FCC. Finally, Craw-Kan states suspension benefits the public interest because it allows Petitioners to use resources in a manner that will benefit the entire subscriber base in the future.

Recommendation

Staff recommends the Commission approve Craw-Kan's request for modification to address call rating and routing issues as identified in paragraph 12 of its Petition pursuant to Section 251 (f)(2)(A)(i) and (B). Staff recommends the Commission effectuate that approval by affirmatively stating in its order that neither Craw-Kan, nor its wireline customers, will be responsible for any transport or long distance charges associated with porting numbers and any associated calls outside Craw-Kan's local service area. Once Craw-Kan receives the modification, it would be able to notify wireless carriers that it was not the responsibility of Craw-Kan to establish facilities and/or arrangements with

third party carriers to transport calls to a point outside of its local serving area. Staff recommends this modification be a conditional modification until such time as the FCC further addresses the rating and routing issues associated with porting numbers.

Staff also recommends the Commission authorize Craw-Kan to block seven-digit dialed calls to ported numbers where the facilities and/or appropriate third party arrangements have not been established (i.e., block calls that would appear to be local, but in fact are long distance calls). Finally, Staff recommends the Commission direct Craw-Kan to establish an intercept message once the first number is ported so that remaining Craw-Kan subscribers are informed of any call rating and routing issues associated with completing a call to a ported number. Such message could be similar to the following text: "The number you are calling has been ported to another carrier. That carrier has not made arrangements to complete the call as dialed."

Since Staff recommends approval of the modification request, which addresses the call rating and routing issues, Staff recommends the Commission deny Craw-Kan's request for suspension. Further, since Craw-Kan states it will be LNP capable by the May 24, 2004, deadline, there is no reason for the Commission to grant a six-month suspension of the requirements.

☒ The Company is not delinquent in filing an annual report and paying the PSC assessment.

☐ The Company is delinquent. Staff recommends the Commission grant the requested relief/action on the condition the applicant corrects the delinquency. The applicant should be instructed to make the appropriate filing in this case after it has corrected the delinquency.

(☐ No annual report ☐ Unpaid PSC assessment. Amount owed:)