

Exhibit No.:

Issue: Modification of LNP Requirements

Witness: Robert C. Schoonmaker

Type of Exhibit: Surrebuttal Testimony

Sponsoring Party: Cass County Telephone Co. and  
Craw-Kan Telephone Cooperative, Inc.

Case No.: TO-2004-0504 and TO-2004-0505

Date: July 16, 2004

FILED<sup>2</sup>

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 ROBERT C. SCHOONMAKER

Robert C. Schoonmaker, of lawful age, being duly sworn, deposes and states as follows:

1. My name is Robert C. Schoonmaker. I am employed by GVNW Consulting, Inc. as President and Chief Executive Officer.
2. Attached hereto and made a part hereof for all purposes is my surrebuttal testimony and accompanying schedules.
3. I hereby affirm that my answers contained in the attached testimony to the questions therein propounded are true and correct to the best of my knowledge and belief.

  
Robert C. Schoonmaker

Subscribed and sworn to before me this 16th day of July, 2004.

  
Notary Public

My Commission expires: 7/16/04

Exhibit No. 2  
Case No(s) TO-2004-0504 TO-2004-0505  
Date 7/22/04 Rptr SKM

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**SURREBUTTAL TESTIMONY**

**OF**

**ROBERT C. SCHOONMAKER**

**Cass County Telephone Co. and Craw-Kan Telephone Cooperative, Inc.  
Case Nos. TO-2004-0504 and TO-2004-0505**

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1                   SURREBUTTAL TESTIMONY OF ROBERT C. SCHOONMAKER.

2  
3    **Introduction**

4    Q.    Please state your name and address.

5    A.    My name is Robert C. Schoonmaker. My business address is 2270 La Montana  
6           Way, Colorado Springs, Colorado 80918.

7  
8    Q.    Are you the same Robert C. Schoonmaker that previously filed direct testimony in  
9           this case?

10   A.    Yes, I am.

11  
12   Q.    What is the purpose of your surrebuttal testimony?

13   A.    I will respond to the testimony of Western Wireless witness Mr. Ron Williams in  
14           regard to the reasons for granting the Companies' request for modification of the  
15           FCC's LNP rules.

16  
17   **FCC Responses to Petitions for Waivers**

18  
19   Q.    On Pages 3 and 4 of his rebuttal testimony Mr. Williams cites three FCC orders  
20           denying petitions for waivers by small companies and seems to imply that the  
21           FCC actions in these petitions should be followed by this Commission. Do you  
22           agree that this Commission is bound in any way by these decisions in the actions  
23           that it takes?

1 A. I do not. The factual situations were different in these cases, for one thing. More  
2 importantly, Congress gave the state commissions the authority to review  
3 petitions for suspensions or modifications of the FCC rules based on criteria  
4 outlined in the statutes. It is this Commission's responsibility to review the  
5 evidence presented and to make a determination as to whether such modifications  
6 should be granted for Cass County and Craw-Kan. Since the request is for a  
7 modification of the general rule established by the FCC, it is clear that the state  
8 commission may arrive at a different decision than the FCC did generally, based  
9 on the specific facts presented.

10  
11 Q. Has the Chairman of the FCC recognized the importance of this state review and  
12 responsibility?

13 A. Yes. On June 18, 2004 Chairman Powell sent a letter to Mr. Stan Wise, President  
14 of the National Association of Regulatory Utility Commissioners (NARUC)  
15 encouraging state commissions to review carefully the impact of implementing  
16 local number portability on small ILECs. Specifically, he stated:

17 The Small Business Administration's Office of Advocacy, however, has  
18 raised concerns about the possible economic burden that intermodal number  
19 porting may place on LECs that are small businesses, particularly those in  
20 rural areas. Those concerns may warrant flexibility in evaluating pending  
21 waiver requests by small LECs under Section 251 (f)(2). Accordingly, and  
22 notwithstanding Chief Snowden's letter, I urge state commissions to consider  
23 the burdens on small businesses in addressing those waiver requests and to  
24 grant the requested relief if the state commissions deem it appropriate.

25  
26 I am attaching a copy of the Chairman's letter as Schedule RCS-1.

27

1    **Obligation to Provide LNP**

2    Q.    Mr. Williams states that "All LECs have known since 1996 that they would be  
3           required to provide LNP."<sup>1</sup> Do you agree?

4    A.    No. While the Telecommunications Act of 1996 ("the Act") did include the  
5           provisions Mr. Williams indicates, this does not necessarily mean that all  
6           companies were required to provide LNP. In fact, the FCC's rules specifically  
7           provided that LECs would not have to provide LNP until they received a bona  
8           fide request from a carrier. Furthermore, Section 251(f)(2) of the Act envisions  
9           that some small rural carriers may seek suspension and/or modification of the  
10          requirement to provide LNP. Finally, the FCC's order implementing local  
11          number portability specifically rejected the required implementation of "location  
12          portability."<sup>2</sup> Implementation of this limit in practice meant that numbers could  
13          only be ported within the local exchange company's local calling area. Thus,  
14          LECs expected that porting requirements would only be to locations within their  
15          local calling areas and to companies who had numbering resources within those  
16          calling areas. In practice then, LECs expected to port numbers only to carriers  
17          who were physically located in their local calling areas. It was not until the  
18          FCC's November 10, 2003 order that the FCC "clarified" that location portability  
19          could encompass routing a call to a physical location hundreds of miles away  
20          within the same Metropolitan Trading Area (MTA). Since there were not  
21          competitive providers in most LEC local calling areas, the LECs did not "know"

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<sup>1</sup> Rebuttal Testimony of Ron Williams, p. 5 Line 9.

<sup>2</sup> "First Report and Order and Further Notice of Proposed Rulemaking" CC Docket No. 95-116 Released July 2, 1996 (FCC 96-286), ¶ 174, 181-187.

1 that they would be required to provide LNP and potentially route calls to distant  
2 locations until last November.

3  
4 Q. Are the Companies objecting to the requirement to provide LNP?

5 A. They are not. They are only requesting that the requirement to route ported calls  
6 to locations outside their local calling areas be modified until such time as the  
7 FCC clarifies whose responsibility this is, and if that responsibility is placed on  
8 the Companies, to allow them adequate time to make arrangements for such  
9 routing.

10  
11 **Submission of Bona Fide Request**

12  
13 Q. Do the Companies dispute the receipt of bona fide requests from Western  
14 Wireless?

15 A. No. I would note that the bona fide request to Craw-Kan which Mr. Williams  
16 indicated was issued "recently" was in fact dated June 28, 2004, almost three  
17 months after Craw-Kan filed its Petition on April 6, 2004.

18  
19 **Actions of Other Companies and States**

20  
21 Q. Should the fact that some companies are implementing LNP without requests for  
22 suspensions have any significance in this proceeding as Mr. Williams indicates?

1 A. No. The factual circumstances of those companies in regard to network  
2 configurations, business arrangements with carriers with which they interconnect,  
3 and customer impacts may be different. If anything, the Commission should take  
4 note of the large number of rural telephone companies in this state and other states  
5 that have been compelled to request suspensions and modifications of the LNP  
6 rules. This clearly indicates that the FCC order did not give appropriate  
7 consideration to the impact of intermodal LNP on rural companies and customers  
8 and that these issues should be further considered by state commissions.

9  
10 Q. Mr. Williams cites some examples of states that have not granted requested  
11 suspensions and modifications. Should the Commission give this information  
12 substantial weight?

13 A. No. While it may be of interest to the Commission, the Commission should also  
14 be aware that other states have granted suspensions and modifications of the LNP  
15 rules to rural companies who requested such action. For example, the Illinois  
16 Commerce Commission granted a 2½ - year suspension of the LNP  
17 requirements.<sup>3</sup> The Mississippi Public Service Commission recognized the  
18 economic burden on small companies and the uncertain resolution of LNP issues  
19 in rural areas when it granted suspension to a group of small rural ILECs:

20 The Commission finds that the costs associated with deploying and  
21 properly implementing intermodal porting may be significant, that  
22 no end user demand for intermodal has been demonstrated, and

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<sup>3</sup> *Harrisonville Telephone Company Petition for Suspension of Modification*, Case No. 03-0731, Order, issued May 11, 2004.

1           that certain of the costs are not yet known. Further, the  
2           Commission finds that the economic burden to the Independents  
3           and their respective end users is not justified until further issues  
4           resolution is forthcoming from the FCC and the courts with respect  
5           to the Independents' intermodal porting obligations.<sup>4</sup>

6           The Mississippi Commission's reasoning is equally applicable for Missouri  
7           customers and companies in this case.

8  
9           Some state commissions granting suspensions have taken notice of the lack of  
10          demand in rural areas. For example, the Utah Public Service Commission  
11          recognized: "Under existing FCC regulation, the costs of preparing for intermodal  
12          portability will be borne by all customers of the Rural Companies, even though no  
13          customers have expressed a desire for the capability and, likely, few would avail  
14          themselves of the capability if made available."<sup>5</sup> Likewise, the Mississippi  
15          Commission stated that "no end user demand for intermodal has been  
16          demonstrated."<sup>6</sup>

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<sup>4</sup> *In Re: Petition of Mississippi Incumbent Rural Telephone Companies for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 251(f)(2) of the Communications Act*, Case No. 03-UA-918, Order, issued May 24, 2004.

<sup>5</sup> *In the Matter of the Utah Rural Telecom Association's Request for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 252(f)(2)*, Docket No. 04-2424-01, Order Granting Suspension, issued March 17, 2004. (Emphasis added.)

<sup>6</sup> *In Re: Petition of Mississippi Incumbent Rural Telephone Companies for Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 251(f)(2) of the Communications Act*, Case No. 03-UA-918, Order, issued May 24, 2004. (Emphasis added.)



1 Suspensions have also been granted by the Arkansas Public Service Commission,<sup>7</sup>  
2 the Public Utilities Commission of Ohio,<sup>8</sup> and the West Virginia Public Service  
3 Commission.<sup>9</sup> In addition, a number of other states are giving such requests  
4 careful consideration at the present time in proceedings such as this one.

5  
6 Q. What state action is particularly relevant to this proceeding?

7 A. It is particularly relevant that the Missouri Commission in a series of orders  
8 issued in the past few weeks has granted the same relief that the Companies are  
9 requesting to other rural ILECs in the State of Missouri.<sup>10</sup>

10  
11 Q. Are the Companies willing to comply with the same requirements for intercept  
12 messages that the Commission imposed in those orders?

13 A. They are.

---

<sup>7</sup> *In the Matter of the Emergency Petition of Decatur Telephone Company for Suspension of the Local Number Portability Obligations of Section 251(b) of the Communications Act*, Docket No. 04-016-U; 2004 Ark. PUC LEXIS 288, issued April 20, 2004.

<sup>8</sup> *Application of Vaughnsville Telephone Company to Suspend or Modify its LNP Obligations*, Case No. 03-1972-TP-UNC, 2004 Ohio PUC LEXIS 33, *Order*, entered Feb. 11, 2004.

<sup>9</sup> *Armstrong Telephone Company Petition for Consent and Approval of Suspension of Wireline to Wireless Number Portability Obligations Pursuant to Section 251(f)(2) of the Communications Act*, Case No. 03-1749-T-PC, 2004 W. Va. PUC LEXIS 970, entered March 8, 2004.

<sup>10</sup> On June 29, the Commission granted modifications for Chariton Valley Telephone Corporation (IO-2004-0467), Chariton Valley Telecom (CO-2004-0469), Choctaw Telephone Company (IO-2004-0546), Citizens Telephone Company of Higginsville (TO-2004-0486), Fidelity Telephone Company (TO-2004-0489), Goodman Telephone Company (TO-2004-0490), Granby Telephone Company (TO-2004-0493), Kingdom Telephone Company (TO-2004-0487), Le-Ru Telephone Company (TO-2004-0494), McDonald County Telephone Company (TO-2004-0491), Mid-Missouri Telephone Company (TO-2004-0455), MoKan Dial, Inc. (IO-2004-0545), Northeast Missouri Rural Telephone Company (IO-2004-0468), Ozark Telephone Company (TO-2004-0490), and Seneca Telephone Company (TO-2004-0490).

1 **Call Routing Issue**

2  
3 Q. Is it true that the primary issue in these cases revolves around the responsibility to  
4 route traffic outside the local exchange carriers' calling area?

5 A. It is. The specific modification requested is aimed solely at that issue which the  
6 FCC has failed to address at this point in time.  
7

8 Q. Is it standard industry practice for originating LECs to deliver local calls to  
9 locations outside the LECs local calling area?

10 A. It is not. Local calls are not generally delivered to locations outside the local  
11 calling area of the originating carrier. Calls to wireless carriers outside the local  
12 calling area of the LEC are typically dialed as toll calls and delivered by the  
13 presubscribed carrier of the customer as toll calls. The presubscribed carrier is  
14 responsible for transport of the call, not the LEC of the originating customer.  
15

16 There are situations where NXX codes are rated at one location and routed to  
17 another. The transport related to these circumstances varies between states. In  
18 some states, state commissions have required the originating carrier to transport  
19 such traffic, in other states, the terminating carrier is required to transport such  
20 traffic. Issues related to the transport of calls to "virtual NXXs" have been before  
21 the FCC for a number of years and have not been resolved. The FCC admitted in  
22 its November 10, 2003 intermodal porting order that this issue was unresolved.

23 The Companies are requesting the modification because of the lack of FCC

1 decision in this area and because of the economic burdens it would place on the  
2 Companies to negotiate agreements that may not be necessary.

3  
4 Q. Mr. Williams indicates in his testimony that these negotiating costs would be  
5 minimal because there are interconnection agreements that could be "adopted for  
6 transiting purposes." Do you agree with this assessment?

7 A. I do not. While there a number of CLECs and CMRS providers that have  
8 interconnection agreements with SBC and with Sprint, I am not aware of any  
9 other ILECs that have such agreements. Since the business arrangements between  
10 ILECs and these companies are different than with CLECs and CMRS providers,  
11 I do not believe there are any interconnection agreements that could be "adopted"  
12 by the Companies to accomplish this objective. These agreements will need to be  
13 newly negotiated agreements between ILECs, and in the case of Sprint, will not  
14 technically be interconnection agreements since the Companies will have no  
15 direct interconnection with Sprint. Given the areas of disagreement with SBC and  
16 Sprint regarding issues such as direct trunking arrangements and record exchange  
17 requirements and formats, I do not believe these negotiations will be easy. In  
18 fact, in another matter where I was consulting on behalf of a small Missouri  
19 ILEC, SBC was asked whether it would consider "transiting" traffic from the a  
20 small ILEC to a wireless carrier. SBC's initial response was negative, and SBC  
21 suggested that the small ILEC should establish a direct trunk to the wireless  
22 carrier.

1 Q. Does the FCC's recent ruling changing the "pick and choose" requirement related  
2 to interconnection agreements impact this assessment?

3 A. Yes, since the FCC has recently ruled that interconnection agreements must be  
4 adopted in their entirety, I do not believe that the Companies would be able to  
5 adopt any existing SBC or Sprint interconnection agreement.  
6

7 Q. In his rebuttal testimony Mr. Williams indicates that there are several ways that  
8 the Companies could route traffic to wireless carriers. Are the suggestions he  
9 makes applicable to the companies?

10 A. Not on an economically sound basis. Mr. Williams, for example, says that there  
11 are "other third party carriers" that could carry the traffic. I am not aware of any  
12 "other third party carriers" that have network facilities to the Companies'  
13 switches that could be used. While the Companies could possibly lease dedicated  
14 facilities from some third parties that would in turn purchase the use of the LECs'  
15 facilities for provisioning these dedicated facilities, they would not be cost  
16 effective given the very limited amounts of ported traffic the companies expect to  
17 have.  
18

19 Mr. Williams also suggests that the companies could use their "existing toll  
20 connections." The Companies do not have "existing toll connections" with  
21 interexchange carriers. They have joint use access facilities that the IXC's  
22 purchase. The only way that the Companies could use IXC facilities would be to  
23 enter into separate business contracts with IXCs to provide retail or wholesale

1 carriage of these calls. Given the existing prices for such service, this would also  
2 be uneconomical and economically burdensome.

3  
4 Finally, Mr. Williams suggests that the LEC could establish a direct connection  
5 with the wireless carrier. This would require the purchase of dedicated facilities  
6 from the Companies' switches to the wireless carrier's point of connection, a  
7 proposition that would again be economically burdensome given the potential  
8 volume of traffic to be carried. It also emphasizes the basic question of why the  
9 LEC should be required to purchase the use of facilities well outside its "local"  
10 calling area to deliver "local" calls. If the calls are "local" calls, they should be  
11 delivered within the local calling area.

12  
13 Q. What is the routing that would be required for calls from the Companies'  
14 exchanges to Western Wireless?

15 A. It would be as described in my direct testimony. The calls would go from the  
16 Companies' exchanges to the SBC tandem switch in Kansas City to the Sprint  
17 tandem at Warrensburg to the Western Wireless interconnection point in Butler,  
18 Missouri and from there on Western Wireless provided facilities to its switch in  
19 Salina, Kansas. This was confirmed by an LNP test done between Cass County  
20 and Western Wireless where the Local Routing Number provided by Western  
21 Wireless was to 660-464-0999 which is a Western Wireless Butler Missouri  
22 routing number. It would use the landline facilities of the Company, SBC, and  
23 Sprint.

1 Q. How does Western Wireless propose that this routing be arranged?

2 A. Western Wireless' proposal is that the Companies negotiate arrangements with  
3 SBC and Sprint to carry such traffic or to use other more expensive third party  
4 arrangements to carry the traffic.  
5

6 Q. How does the Company proposal differ from Western Wireless' proposal?

7 A. The Companies propose that they not be required to port numbers and route calls  
8 until Western Wireless arranges such transport from the Companies' exchanges.  
9 Western Wireless already has interconnection agreements with both SBC and  
10 Sprint that cover most of the terms of providing such transport. If there needs to  
11 be changes to those agreements to cover this new situation, the changes should be  
12 relatively minor.  
13

14 Q. Does the Western Wireless offer made in the May 5 "on the record presentation"  
15 as summarized by Mr. Williams provide an adequate solution to the transport  
16 compensation issue?

17 A. It does not. This proposal would pay the companies the equivalent of what  
18 Western Wireless would pay SBC for transiting, \$0.004 per minute according to  
19 their interconnection agreement. However, since the traffic also needs to transit  
20 Sprint's network to get to Butler, it would not compensate the Companies for the  
21 cost of transiting Sprint's network. The Western Wireless cost for transiting and  
22 terminating on the Sprint network would be over \$0.013 per minute (\$0.004891

1 for tandem switching, \$0.003009 for end office switching, and \$0.005285 for  
2 common transport),  
3

4 **Demand for Service**  
5

6 Q. Mr. Williams makes the statement that LNP enables wireless carriers to compete  
7 for customers in areas that "have not previously been exposed to competition."

8 Has competition been available to customers in the Companies' operating area?

9 A. Yes, it has. Several wireless carriers are offering wireless service in the  
10 Companies' operating territory and have for a number of years. Customers have  
11 had the option of choosing wireless service for a considerable time and many of  
12 them undoubtedly have. The only thing that LNP gives them is the opportunity to  
13 have that wireless service using a number that was previously a wireline number.  
14 LNP does not change the fact that the Companies' customers have been exposed  
15 to competition for a number of years.  
16

17 Q. Mr. Williams' projection for LNP customers (240 per year for Cass County, 80  
18 per year for Craw-Kan) are ten times your projections. What is the basis of your  
19 projections?

20 A. I based those projections on the current level of wireline to wireless porting as  
21 reported by the FCC and as explained in my direct testimony. Mr. Williams gives  
22 no basis for his projections, but they are certainly much higher than companies are  
23 experiencing across the country. As I indicated in my direct testimony, I would

1 expect porting demand in rural areas to be lower, rather than ten times higher, that  
2 which is being experienced in urban areas.

3  
4 Q. Are Mr. Williams' projections consistent with the opinions expressed by other  
5 Western Wireless executives?

6 A. They do not appear to be so to me. Mr. Eric Hertz, Chief Operating Officer of  
7 Western Wireless is quoted in a June 3, 2004 article in the Omaha World-Herald  
8 as follows:

9 An executive of Western Wireless, which operates the Cellular  
10 One wireless brand that is popular outside major metro areas, said  
11 traffic in its stores was not particularly heavy.

12  
13 "Volumes are lighter than expected," said Eric Hertz, chief  
14 operating officer.

15  
16 Hertz said the ability to switch wireless companies and keep your  
17 old number may not be as big a priority as wireless companies first  
18 thought.

19  
20 "People just don't see the need," Hertz said of portability. "If you  
21 haven't given it (your wireless number) out to a lot of people, then  
22 you don't really care."  
23

24 Q. Does this conclude your testimony?

25 A. Yes it does.





CHAIRMAN

Federal Communications Commission

Washington, D.C.

June 18, 2004

The Honorable Stan Wise  
President, National Association of Regulatory Utility Commissioners  
Commissioner, Georgia Public Service Commission  
225 Washington Street, S.W.  
Atlanta, GA 30334

Dear President Wise:

I am writing you, as the president of the National Association of Regulatory Utility Commissioners and representative of NARUC's member commissioners, in connection with requests that small local exchange carriers (LECs) have made to various state commissions for waivers of intermodal number porting obligations.

As you know, the FCC concluded in its *Telephone Number Portability Proceeding* (CC Dkt. No. 95-116) that, by November 24, 2003, LECs generally had to port numbers to wireless carriers where the requesting wireless carrier's coverage area overlaps the rate center with which the customer's wireline number is associated. Wireline carriers that operate in areas outside the 100 largest Metropolitan Statistical Areas had to provide such number porting no later than May 24, 2004. The FCC granted certain LECs serving fewer than two percent of the nation's subscriber lines a limited waiver of the November 24, 2003 deadline until May 24, 2004.

The Commission has emphasized on many occasions the important competitive and consumer benefits of number portability. The Chief of the FCC's Consumer & Governmental Affairs Bureau noted the benefits of wireline-to-wireless porting in his May 6, 2004, letter to you. The Small Business Administration's Office of Advocacy, however, has raised concerns about the possible economic burden that intermodal number porting may place on LECs that are small businesses, particularly those in rural areas. Those concerns may warrant flexibility in evaluating pending waiver requests by small LECs under Section 251(f)(2). Accordingly, and notwithstanding Chief Snowden's letter, I urge state commissions to consider the burdens on small businesses in addressing those waiver requests and to grant the requested relief if the state commissions deem it appropriate. I also request that you share with NARUC's membership this letter encouraging state commissioners to closely consider the concerns raised by small LECs petitioning for waivers.

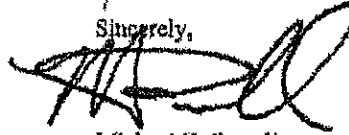
I further urge state commissions, in the course of their deliberations on the pending waiver requests, to encourage parties to develop and submit data relating to the benefits of wireline-to-wireless number portability and the costs of complying with those

The Honorable Stan Wise  
June 18, 2004  
Page 2

obligations, including upgrade costs to the network and routing costs for calls forwarded to carriers. Finally, I encourage parties to submit such information to the FCC for inclusion in our ongoing proceeding in CC Docket No. 95-116 regarding intermodal porting intervals.

Please do not hesitate to call if you would like to discuss these issues further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael K. Powell', with a stylized, cursive script.

Michael K. Powell

cc: Commissioner Robert Nelson, Chair, NARUC Telecommunications Committee  
Commissioner Carl Wood, Chair, NARUC Consumer Affairs Committee  
William Maher, Chief, Wireline Competition Bureau  
John Muleta, Chief, Wireless Telecommunications Bureau  
K. Dane Snowden, Chief, Consumer & Governmental Affairs Bureau