BEFORE THE MISSOURI PUBLIC SERVICE COMMISSION

In the Matter of the Petition of New London Telephone Company, Orchard Farm Telephone Company, and Stoutland Telephone Company for Suspension of the Federal Communications Commission Requirement to Implement Number Portability	)))))))	Case No. TO-2004-0370

SUPPLEMENTAL PETITION

COME NOW New London Telephone Company, Orchard Farm Telephone Company, and Stoutland Telephone Company ("Petitioners"), and pursuant to the Missouri Public Service Commission's ("Commission") April 2, 2004 *Order Directing Filing*, state to the Missouri Public Service Commission as follows:

SUMMARY

Petitioners request modification to address the call rating and routing issues that were left unresolved by the FCC's recent decisions regarding wireline-to-wireless local number portability ("LNP"), and Petitioners request a two year suspension of these LNP requirements because Petitioners' existing switches are not currently LNP capable. Petitioners' initial February 9, 2004 Petition ("Initial Petition"), along with this Commission-ordered Supplemental Petition, establish Petitioners' eligibility and need for suspension and modification of the FCC's wireline-to-wireless LNP requirements pursuant to 47 U.S.C. §251(f)(2). Under this statutory provision, the Commission must weigh the high LNP customer surcharges against the questionable "benefits" of mandating wireline-to-wireless LNP in remote rural areas absent any customer demand or interest. This factor alone – adverse economic impact on customers– is sufficient grounds for Commission to grant suspension and modification. In addition, the technical challenges and undue economic burden on Petitioners also weigh in favor of suspension.

DISCUSSION

I. Federal law allows the Missouri Commission to suspend and modify.

1. Federal law allows the Missouri Commission to suspend and modify the FCC's local number portability requirements for small rural carriers in order to avoid: (1) a significant adverse economic impact on Petitioners' subscribers; (2) an undue economic burden on Petitioners; or (3) a technically infeasible requirement. 47 U.S.C. § 251(f)(2). A showing of any one of these three criteria, along with a finding that suspension and modification is consistent with the public interest, is sufficient grounds for the Commission to grant suspension and modification under the Act. Many other state Commissions have recently granted similar requests for small rural telephone companies.[1] See e.g. Attachment A (*In the Matter of the Emergency Petition of Decatur Telephone Company*, Arkansas Public Service Commission Docket No. 04-016-U, *Order*, issued April 20, 2004)(granting a temporary LNP suspension based upon "significant adverse economic impact" on ratepayers and "undue economic burden" on the company).

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[1] Alabama, Arkansas, Colorado, Idaho, Nebraska, Ohio, Oregon, South Carolina, South Dakota, Utah, Washington, and West Virginia have suspended the LNP requirements for small rural companies. Similar requests are pending before at least seventeen (17) other state utility commissions.

II. Petitioners have demonstrated need and eligibility for suspension.

2. Petitioners' existing switches are not equipped to support wireline-to-wireless LNP. Therefore, Petitioners must either update or replace these switches. Either option will be quite expensive and result in increased costs for both Petitioners and Petitioners' subscribers.[2] In addition, the choice between these options is technically challenging in that it requires network engineers to study alternative switch platforms and perform various cost/benefit analyses. The verified Petition established that Petitioners serve less than two percent of the Nation's subscriber lines installed in the aggregate.[3] Thus, as explained in more detail below, Petitioners have demonstrated both need and eligibility for suspension and modification.

A. Adverse Economic Impact on Subscribers

3. The FCC's rules allow Petitioners to assess a monthly, long-term number portability charge on subscribers to offset the initial implementation and ongoing costs incurred to provide LNP.[4] Petitioners' estimated implementation charges alone could be as high as \$0.71 per customer, per month for the next five years, and <u>this does not include ongoing LNP charges.</u>

4. These estimated customer charges outweigh any questionable "benefit" that Petitioners' subscribers will receive from wireline-to-wireless LNP, and other state commissions have granted suspension and modification on this

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[2] The FCC rules allow Petitioners to allocate the total amount of LNP cost recovery among the number of access lines in Petitioners' territories and add this charge to customer bills for five years. 47 CFR 52.33(a)(1).
[3] *See* Petition, pp. 5-6.

basis alone. For example, the Public Utilities Commission of Ohio recently weighed the benefits against the costs of implementing LNP for a small rural carrier and concluded that the costs would pose a significant adverse impact on customers:

> The Commission believes that **the costs that Vaughnsville would incur to implement LNP would pose a significant adverse economic impact risk to its subscribers**. . . . **Pursuant to the FCC rules, Vaughnsville is permitted to allocate the total amount of the LNP cost recovery among the number of access lines in its territory and add this charge to its bills as a separate line item**. The FCC permits carriers to recover this federally mandated charge for five years from the date that the FCC approves the ILEC's tariff provision. **Therefore, assuming a minimum cost of $ 61.69 per access line, as set forth by the applicant, the monthly per line cost would be $ 1.03 per access line per month for a period of 5 years. Vaughnsville would be the first ILEC in Ohio to charge its customer over $ 1.00 per line to provide LNP to its end users**.[5]

Accordingly, the Ohio Commission found that "it is in the public interest, convenience, and necessity to **grant Vaughnsville a limited waiver of the obligation to implement LNP due to the cost/benefit analysis discussed above**."[6] After weighing the benefits against the costs, the Missouri Commission should do the same in this case.

5. The adverse economic impact is even more significant for Petitioners' subscribers in light of the fact that few, if any, subscribers are expected to port their wireline numbers to a wireless carrier. In Petitioners' rural exchanges, there

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[4] 47 CFR §52.33(a)(1).
[5] *In the Matter of the Application of Vaughnsville Telephone Company to Suspend or Modify its Local Number Portability Obligations*, Case No. 03-1972-TP-UNC, 2004 Ohio PUC LEXIS 33, entered Feb. 11, 2004 (emphasis added and footnotes omitted).
[6] *Id.*

appears to be little or no demand for wireline-to-wireless LNP at this time. Petitioners have received no subscriber requests for porting to a wireless carrier, and it is unlikely that rural service areas will experience any great demand for this service in the near future. This may be due in part to the fact that wireless coverage is limited or non-existent in many remote rural areas, but even large incumbent local exchange carriers serving in urban areas are seeing little demand for wireline-to-wireless porting.

6. For example, at the end of 2003 BellSouth served roughly 23.7 million access lines.[7] But in a recent *ex parte* presentation before the FCC, BellSouth indicated that through February 18, 2004, its total ports were "approximately 1458 wireline to wireless ports with valid LSRs."[8] This is only .006% (far less than 1%) of BellSouth's access lines. A recent *ex parte* presentation before the FCC by Cingular Wireless noted that 97.5% of Cingular's porting was wireless-to-wireless, while wireline-to-wireless was only 2.5% of total porting.[9] These figures indicate that there is currently very little demand for wireline-to-wireless porting, and it is likely that this is even more true in rural areas.

B. Undue Economic Burden

7. Petitioners provide service in markets that are already challenging to serve because of high costs and low population density. The FCC's LNP

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[7] *See* www.bellsouth.com

[8] http://svartifoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6515784315

[9] http://svartifoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6516083945

requirements will place an undue economic burden on Petitioners by forcing them to divert limited capital resources from the provision of reliable, high-quality services in order to implement an expensive service that has little (if any) subscriber interest or demand. The high costs of implementing the FCC's wireless LNP policy experiment will have immediate impacts upon Petitioners and Petitioners' rural subscribers. As a result, Petitioners will be forced to divert limited capital funds to implement LNP for a small handful of subscribers (if any) rather than applying those funds to upgrade infrastructure that will benefit a large number of subscribers.

C. Technical Challenges

8. Petitioners have been working diligently to resolve the hardware and software issues related to the implementation of LNP. The initial Petition explained that Petitioners' Seimens DCO switches have technical limitations, and Petitioners' engineers are investigating the cost to replace such switches system-wide.[10] Petitioners sent out Requests for Proposals ("RFPs") seeking cost information about switch replacement. It takes time to analyze this data and assess the costs and benefits of a switch upgrade versus switch replacement. If switch replacement emerges as the better solution, then additional analysis will be necessary to determine which switch platform will provide the best long term solution for customers. A further consideration is whether a "soft" switch might be preferable to a traditional physical switch.

D. Cost/Benefit Analysis

9. The initial cost/benefit analysis in this case should compare the cost of converting Petitioners' existing switching platform to accommodate LNP versus the benefit of postponing implementation until a switching replacement can be installed, given Petitioners' limited resources.

10. If Petitioner is required to implement LNP immediately, customers would have the advantage of an ability to port a landline number to a wireless carrier. However, this has benefit has limited (if <u>any</u>) short term or long term value to most customers. Customers can gain a wireless number in Petitioners' markets today, and customer desire for wireless service does not hinge on the ability to port a number. Rather, customer desire hinges primarily upon cost, convenience, and calling scope.

11. If all customers were made aware of the cost to implement LNP and the fact that they will bear this cost for the few customers that may desire to port their number, it is highly likely that customers would oppose implementation.

12. In addition to implementation costs, should LNP implementation be ordered to occur immediately, the current switch will only be upgraded and switch replacement will not occur for years to come. Because Petitioners' Siemens DCO switches are no longer receiving any development updates other than mandated changes, these rural customers will lack access to the advanced features offered in other parts of Missouri.

13. Unfortunately, with a switch that is becoming increasingly outdated, greater costs to maintain and repair are attached. The DCO platform

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[10] *Petition*, p. 9.

has costly support available from the vendor and attached to the support are billable minimums, guaranteeing the switch vendor $1,500 per issue, with no guarantee of resolution. Replacement parts and in-house personnel trained on such equipment are becoming scarce, and this presents challenges when critical issues arise. This scarcity is reflected in the ever-increasing cost of parts and vendor support.

14. A switch replacement is more costly than an LNP upgrade to an existing switch. However, with a new switch Petitioners' Missouri customers will be served at a lower cost by a more reliable switch with greater capabilities for expansion. Operating costs will be lower in areas of power consumption, cooling, replacement parts, and vendor technical support, supplemented with a larger base of in-house trained personnel capable of responding to crisis situations. It would also be anticipated that a new switch will experience fewer repairs and fewer crisis situations while at the same time having the capability to push digital service out farther and increase customer capacity over remote hauls to Next Generation Digital Line Carriers (NGDLC).

15. With the Siemens DCO switch, capacity can be concentrated over a T1 24-channel, or customer, pipe to serve a DLC to accommodate 48 customers while the DRM (NGDLC) switch can double that concentration level allowing for 96 customers to be served over the same T1 pipe. This increase in customer capacity over the same T1 pipe further adds to the economic efficiency of the new switch over its life and decreases lifetime costs to consumers. Additionally, newer switch platforms are designed to offer future IP services, a

growing demand in rural Missouri. This network architectural design might further facilitate a migration to DSL in these markets. The newer switch would have the capability to collapse record polling into a single site and poll over the existing wide area network (WAN) rather than requiring the polling of numerous sites using the currently required dial up method. This WAN polling method will utilize existing facilities and save Missouri consumers the toll costs of switch polling.

16. These issues of escalating concern drive the Petitioners' willingness to purchase newer switches that operate at lower costs. Petitioners are willing to replace switches with more modern switches that will have continued updates made to accommodate changes in telecommunications. Petitioners appreciate the Commission's desire to diligently examine and understand these issues for the benefit of both the consumer and the industry. Petitioners believe that a time-specific waiver with the value of a less costly and more modern switch replacement in the future is the best solution for the consumers in Missouri, both wireless and wireline.

17. Furthermore, the short time frame between the FCC's decision and its May 24, 2004 implementation deadline has resulted in a large number of carriers investigating switch modifications and possible switch replacements nationwide. This has placed undue burdens on Petitioners' technical staff, and the same staffing burdens, as well as associated production burdens, exist for switch vendors as well. Petitioners' holding company serves numerous small rural exchanges nationwide, and Petitioner is not currently ready (financially or

physically) to deploy LNP upgrades throughout more than one hundred sites nationwide. The requirement to implement wireless LNP systemwide came about only after the FCC's November 10, 2003 decision, and as explained in more detail below, Petitioners could not have anticipated the impact of the FCC's change in course.

18. Finally, as explained below in Petitioner's request for modification, the FCC has not yet clarified many of the rating and routing issues that were left unresolved by the FCC's recent decision, and this creates an additional technical hurdle for implementing LNP.

III. Suspension and Modification are in the Public Interest.

A. Existing customers will receive no benefit from the charges.

19. Implementing wireline-to-wireless LNP will not result in any tangible benefit for Petitioner's rural customers. Instead, the vast majority of rural customers will bear burdensome and unnecessary costs. And ironically, those few customers (if any) that do port their number to a wireless carrier will avoid the LNP charges, which may leave the remaining customers paying even higher charges. Petitioners currently have NO requests for wireline-to-wireless LNP from end user customers, demonstrating a complete lack of demand for this service.

B. The LNP costs and customer surcharges are not reasonable.

20. It is unlikely that Petitioners' subscribers will view as "reasonable" an additional surcharge on their bills, especially one that is being imposed to

benefit wireless carriers. Moreover, the question of "reasonableness" is relative, especially in rural areas of Missouri where median household incomes are lower than Missouri's statewide average. After weighing the estimated costs and LNP monthly recurring charges against the minimal (if any) benefit to Petitioner's customers, the Commission should grant suspension.

C. Competition exists in rural exchanges.

21. Wireless carriers have a number of competitive advantages over Petitioner. For example, wireless service areas are much larger than Petitioner's wireline exchange(s), and wireless calling scopes are much wider than rural exchange calling scopes. Moreover, wireless carriers are already competing in rural areas, and some of Petitioner's customers have both wireline and wireless service. Nothing prevents customers from using both wireline and wireless service or from dropping their wireline service altogether. In other words, competition is already taking place, and the lack of LNP will have no impact on the wireless carriers' ability to compete.

D. Suspension and modification are in the public interest.

22. Suspension and modification are in the public interest. Historically, Petitioner has refrained from system modifications without first weighing consumer benefit/demand against offsetting costs. Petitioner believes that the cost of upgrading Petitioner's DCO switches far outweighs any benefits at this point. Petitioner also recognizes that interest may increase in the future, and Petitioner believes that wireless LNP could be implemented in a more cost

effective manner a few years from now with a new switch platform that is less costly to operate and more modern in capability and vendor support.

23. At this time, wireline-to-wireless LNP is an unnecessary expenditure of effort and expense for small rural carriers. Furthermore, it will needlessly raise costs for rural customers. For this reason, state commissions across the country are granting suspensions for small rural carriers such as Petitioner. For example, the West Virginia Public Service Commission recently held:

> Since imposing the wireline to wireless number portability requirements under Section 251(f)(2) of the Act on Armstrong-Northern at this time would cause a significant adverse economic impact on users of telecommunications generally; would impose a requirement on Armstrong-Northern that is unduly economically burdensome, and would impose a requirement that is technically infeasible; and since Federal law does not preempt the Commission from making the decision in this matter and permits the Commission to exempt Armstrong-Northern for a temporary period of time, it is reasonable to suspend Armstrong-Northern's wireline to wireless number portability requirements under Section 251(f)(2) of the Act to a date certain, i.e., for one year . . . and requiring Armstrong-Northern to petition the Commission annually for so long as it wants the suspension to remain in effect and for so long as the basis for such exemption continues to exist.[11]

The Utah Public Service Commission recently issued a similar one-year suspension of the wireline-to-wireless number portability requirement for a group of small Utah companies.[12] The Colorado Public Utilities Commission has also

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[11] *Armstrong Telephone Company-Northern Petition for Consent and Approval for Suspension of Wireline to Wireless Number Portability Obligations*, Case No. 03-1749-T-PC.

[12] *In the Matter of the Utah Rural Telecom Ass'n Request for Suspension of Wireline to Wireless Number Portability*, Docket No. 04-2424-01. 2004 Utah PUC LEXIS 49, issued Mar. 17, 2004.

granted one-year LNP suspensions for a group of small rural carriers.[13] After weighing the benefits against the costs, this Commission should do the same and grant the Petition.

IV. Petitioners have acted in response to the FCC's decision.

A. New November 10, 2003 requirements

24. The wireline-to-wireless LNP requirements established in the FCC's November 10, 2003 are very different from the FCC's rules which do not require location portability between wireline carriers. Specifically, Petitioner must now make its switches capable of porting a subscriber's local telephone number to a requesting wireless carrier whose "coverage area" overlaps "the geographic location of the rate center in which the [ILEC] customer's wireline number is provisioned, provided that the porting-in [CMRS] carrier maintains the number's original rate center designation following the port."[14] Thus, <u>for the first time</u>, on November 10, 2003, the FCC established a requirement for Petitioner to port numbers to a requesting wireless carrier where the wireless carrier's coverage area overlaps the geographic location of the rate center to which the number is assigned, even though the wireless carrier's point of presence is in another rate center and has no direct interconnection with Petitioner.

25. This new requirement is <u>very</u> different from the FCC's rules prior to November 10, 2003. Specifically, the FCC's rules for wireline-to-wireline LNP

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[13] *See e.g. In the Matter of Sunflower Telephone Company, Inc.'s Combined Petition for Suspension and Motion for Expedited Treatment and Waiver,* Docket No. 04M-130T, *Decision Granting Petition in Part*, adopted April 13, 2004.

require a local presence in an ILEC exchange, and ILECs are not required to port numbers beyond their rate center. Until the FCC's November decision, there were no different rules for wireline-to-wireless calling, and ILECs universally assumed that the wireline LNP rules applied. In other words, ILECs had seen nothing from the FCC to suggest any type of requirement for geographic porting. Because the wireless carriers had not sought to establish any physical point of presence in Petitioners' exchanges, there did not appear to be any immediate possibility that LNP would be required.

26. It was only after the FCC's November 10, 2003 decision that the ILECs had any obligation to port numbers beyond their rate centers, and this new requirement is completely contrary to the FCC's existing rules for wireline-to-wireline LNP. To make matters worse, the FCC recognized that there were complicated call rating and routing issues associated with this new "about-face" in policy, yet the FCC declined to address these issues in its November decision, putting them off for some later date. Thus, Petitioners have not had "years" to prepare for wireline-to-wireless LNP. Rather, Petitioners have had only a few months to examine the FCC's completely new and not yet fully defined or resolved wireline-to-wireless LNP requirements.

27. There are no carriers currently with a local presence in Petitioners' rate centers. Without the requirement of porting numbers beyond rate centers, there had been no interest within these markets by either competitive local

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[14] *In re Telephone Number Portability*, CC Docket No. 95-116, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, issued Nov. 10, 2003.

exchange carriers ("CLECs") or wireless carriers requesting LNP. If the FCC had not decided to extend LNP obligations beyond rate centers, it is unlikely that wireless carriers would have any interest in building out to rural exchanges for the few potential customers to be gained via LNP. The FCC's recent decision has resulted in a number of wireless carriers sending LNP requests regardless of their point of connection, and this has placed a tremendous burden on small rural ILECs nationwide. Ultimately, it is the consumers in small rural exchanges that will be faced with the costs.

28. It would not have been good business for Petitioners to prepare for LNP beyond rate centers before November 10, 2003 because no such requirement existed or was even anticipated. Replacing or upgrading switches based upon such an unanticipated requirement would have raised questions from consumers and perhaps even regulators about the rationale for assuming such great costs. LNP beyond rate centers is a completely new requirement, and Petitioners are requesting temporary suspension in order to determine the best long-term solution for consumers at the least long-term cost with a switch that has the capability to offer customers the services that are in demand.

B. Petition for Suspension

29. In January, after considering and reviewing the FCC's decisions and various other industry sources, Petitioners and counsel began drafting the Petition for Suspension. The Petition was finalized in February and filed on Monday, February 9, 2004. Petitioners sought expedited treatment.

C. Discussions and Meetings with Staff and Public Counsel

30. After the FCC issued its recent orders, Petitioners have been active in communicating with the Commission's Staff and the Office of Public Counsel about the costs and consumer impacts of wireline-to-wireless LNP. Counsel for Petitioners met in person with Natelle Dietrich and Mike Scheperle from the Commission Staff on March 16, 2004 to discuss issues related to the Petition and LNP. In addition, counsel for Petitioners met in person with Barbara Meisenheimer from the Office of Public Counsel to discuss issues related to LNP. A number of follow-up telephone calls and e-mails to Staff and Public Counsel have been made since that time, including communication on February 26 and 27, March 2, 4, 5, 8, 15, 19, 24, and 25, and April 5, 8, and 20. Thus, Petitioners have been prudent in actively communicating their concerns about wireline-to-wireless LNP with Staff and Public Counsel.

V. SUPPLEMENTAL REQUEST FOR MODIFICATION

31. Although the FCC has recognized the problem of designating different rating and routing points on LNP for small rural LECs, the FCC has not yet addressed the issue. Instead, the FCC's November 10, 2003 decision found that these issues were outside the scope of its order and stated:

> [T]he 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. Therefore, without prejudging the outcome of any other proceeding, we decline to

address these issues at this time as they relate to intermodal LNP.[15]

As a result, there are no rules, guidelines, or resolution of certain outstanding issues related to wireline-to-wireless portability for rural carriers. This is especially problematic for call rating and routing issues.

A. Call Rating and Routing Issues

32. The different call routing schemes used by wireless and wireline carriers make wireline-to-wireless LNP problematic. Petitioners are small rural local exchange companies, and Petitioners' exchange boundaries and the scope of Petitioners' authorized telecommunications services have been defined by the Commission. However, recent data request responses of a wireless carrier in another case involving LNP indicate that at least one wireless carrier expects small rural ILECs (and their customers) to bear the cost of delivering ported numbers and associated calls to the wireless carriers' points of presence which are beyond small company exchange boundaries. Thus, it appears that at least one wireless carrier expects Petitioners to arrange for the provision of facilities and to pay the costs of delivering ported calls from Petitioners' exchanges to wireless points of presence great distances beyond Petitioners' local exchange boundaries. At the very least, it is in the public interest to grant Petitioners' request for suspension until such time as these issues have been resolved by the FCC.

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[15] *Id.* at ¶40.

B. Request for Modification

33. Petitioners do not presently own facilities that would allow Petitioners to deliver calls outside of their exchanges. Therefore, one of the main technical obstacles is the issue of how to transport calls between ported numbers in different switches from a small ILEC to a wireless carrier where there are no facilities to transport calls beyond Petitioners' exchange boundaries. Although the FCC's *Order* recognized that number portability was a separate function from the exchange of traffic (*See* ¶¶ 37-40), the FCC has not resolved the call rating and routing issue. Petitioners are still examining these call rating and routing issues, but Petitioners believe that modification is necessary at this time.

34. Accordingly, Petitioners seek suspension and modification of the FCC's LNP requirements to address these call rating and routing issues. Specifically, Petitioners seek suspension and modification such that once LNP capability is achieved, Petitioners would notify the wireless carrier that Petitioners were fully LNP capable but that if the requesting wireless carrier wants calls transported to a point outside of Petitioners' local serving area, then the wireless carrier will need to establish the appropriate facilities and/or arrangements with third party carriers to transport the ported number and the associated call.

35. This suspension and modification would make the wireless carrier responsible for costs associated with transporting the call beyond the small ILEC rate center and thus place the costs on the carrier that caused them. It is also consistent with the FCC's November 20, 2003 *Order* which notes that transport of calls can be handled as it is currently handled today. *In the Matter of*

Telephone Number Portability, CC Docket No. 95-116, *Order*, rel. Nov. 20, 2003, ¶9. ("We note that today, in the absence of wireline-to-wireless LNP, calls are routed outside of local exchanges and routed and billed correctly.")

CONCLUSION

WHEREFORE, Petitioners respectfully request that the Commission: (1) GRANT Petitioners' request for a two-year suspension of the FCC's wireline-to-wireless LNP requirements; and (2) GRANT Petitioners' request for modification and expressly state that Petitioners are "not foreclosed from seeking additional modification if and when the FCC issues a subsequent decision to address the rating and routing issues associated with porting numbers."

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by electronic mail, U.S. Mail, postage prepaid, or hand-delivered on this 29th day of April, 2004, to the following parties:

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SECR. COMM.

ARKANSAS PUBLIC SERVICE COMMISSION

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FILED

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 OF 1934, AS AMENDED	DOCKET NO. 04-016-U ORDER NO. 1

ORDER

On January 20, 2004, Decatur Telephone Company, Inc. ("Decatur") filed, pursuant to Section 251(f) of the Communications Act of 1934 as amended, ("the Act"), an Emergency Petition ("Petition") for a two-year suspension of Decatur's obligations to provide local number portability ("LNP") under Section 251(b) of the Act. Decatur's Petition states that under 47 C.F.R. § 52.23(b)(2) it is required to provide LNP in its service areas on or before May 24, 2004. Decatur states that this Commission may suspend or modify its LNP obligations under Section 251(f)(2) of the Act if the Commission determines it is necessary to avoid significant adverse economic impact on users of telecommunications services or to avoid imposing a requirement that is unduly economically burdensome or technically infeasible, and is consistent with the public interest, convenience and necessity.

Pursuant to 47 C.F.R. §52.33, Decatur asserts that it may assess a monthly LNP charge to offset the costs incurred in providing LNP. Decatur further asserts that an undue economic burden on its customers will occur if an extension of the LNP obligation is not granted. Decatur's Petition reflects the monthly cost per customer associated with recovery of LNP implementation costs if it is not allowed to use a longer term, more cost efficient approach. Decatur estimates that it will be forced to recover $148,000 in initial LNP implementation costs which will result in a $.46 per customer

ATTACHMENT A

per month increase. Decatur also states that it would likely increase its basic local rates by an additional $1.43 per month in order to collect the remaining unrecovered LNP cost, resulting in a total monthly rate increase for its ratepayers in the amount of $1.89 per month. Decatur further asserts that compliance with the LNP obligation is technically difficult under existing circumstances, and that the public interest would best be served by granting the requested suspension.

On February 17, 2004, Decatur filed additional information in this docket which supports the assertions contained in its emergency petition. Decatur states that the factor driving its need for relief is the status of its current switching platform. In November of 2003, TDS Telecommunications Corporation ("TDS"), Decatur's parent company, issued a request for proposals from vendors for upgrades to its switches in its smallest markets. TDS is currently analyzing the responses to its request for proposals and is focusing on the most critical sites, i.e. those with competitor requests for LNP. TDS anticipates that specific solutions, including switch replacement, for the critical sites will be developed soon and a more specific timetable for the upgrades for Decatur can then be provided.

On March 16, 2004, the General Staff of the Arkansas Public Service Commission ("Staff") filed its response to Decatur's request. Staff takes the position that it would be technically feasible, although difficult, for Decatur to meet the existing LNP deadline; however, Staff states that Decatur's economic argument is compelling. Staff notes that Decatur is presented with a choice of unnecessary spending now for software upgrades versus inevitable spending for switch upgrades that will be in place later and which will satisfy the LNP obligations. Staff states its belief that Decatur has satisfied the requirements of 47 U.S.C. § 251(f) and Staff supports a suspension of the LNP requirement. In lieu of a two-year suspension, Staff recommends that the Commission "grant an interim six months suspension and allow Decatur to renew its request as it gets closer to completing its switch replacement and has a better idea when it can meet its LNP obligation."

Based upon the representations and assertions made by Decatur, and Staff's Response, the Commission finds that Decatur's current obligation to provide local number portability by May 24, 2004, will create a significant adverse economic impact on Decatur's ratepayers and an undue economic burden on Decatur. Therefore, pursuant to 47 U.S.C. §251 (f)(2), the Commission finds that it is consistent with the public interest to suspend, pursuant to the LNP obligation of Decatur until on or before November 24, 2004. Decatur may petition for an extension of the suspension granted hereby if it deems such action necessary.

BY ORDER OF THE COMMISSION.

This 20th day of April, 2004.

Sandra L. Hochstetter

Sandra L. Hochstetter, Chairman

Daryl E. Bassett

Daryl E. Bassett, Commissioner

Randy Bynum, Commissioner

I hereby certify that the following order issued by the Arkansas Public Service Commission has been served on all parties of record this date by the U.S. mail with postage prepaid, using the address of each party as indicated in the official docket file.

Diana K. Wilson

Diana K. Wilson

Secretary of the Commission

Date 4-20-04

Diana K. Wilson

Diana K. Wilson

Secretary of the Commission