

BEFORE THE ARIZONA CORPORATION COMMISSION

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

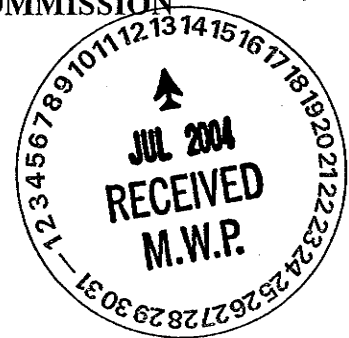
Arizona Corporation Commission

DOCKETED

JUL - 9 2004

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NR



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

DOCKET NO. T-01072B-04-0010

DECISION NO. 67109

ORDER

Open Meeting
July 6 and 7, 2004
Phoenix, Arizona

BY THE COMMISSION:

FINDINGS OF FACT

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

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

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

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

8 4. On November 7, 2003, WWC License LLC ("Western Wireless") sent SWTC a
9 BFR to implement LNP on or before the FCC's LNP implementation deadline of May 24, 2004.
10 Quartzite/Salome is the SWTC exchange that received the BFR.

11 5. After receiving the BFR, SWTC filed an emergency petition with the Commission
12 for a 2 year suspension of its LNP obligations pursuant to the 1996 Act.

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

18 (A) is necessary-

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

24 (B) is consistent with the public interest, convenience, and necessity."
25
26 ...
27

28 ¹ Telephone Number Portability, CC Docket No. 95-116, Third Report and Order, May 12, 1998 ("Third Report and Order")

1 7. SWTC indicated that the monthly End User Direct Cost ("EUDC") of
2 implementing LNP is \$.21 (See Attachment A) per line. SWTC believes these costs to be unduly
3 economically burdensome and believes that suspension of its LNP implementation obligation is in
4 the best interest of its Arizona customers.

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

12 9. While SWTC believes its current switches provide a very high quality of service,
13 SWTC indicated its switches are not LNP and Communications Assistance to Law Enforcement
14 Act ("CALEA") capable. Because these are the only limitations to its switches, SWTC does not
15 believe switching upgrades would be of great benefit at this time.

16 10. In its original application, SWTC indicated that it believes switch replacement prior
17 to the implementation of LNP would be in the best interest of its customers as customers would
18 not have to pay for LNP software twice- once now to upgrade the existing switch platform and
19 again when the necessary switch replacements occur. On May 28, 2004, SWTC indicated that it
20 plans to replace its switch in approximately two years.

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

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

13. Western Wireless points out that the costs of upgrading SWTC's switches to offer LNP are necessary as SWTC's switches don't offer other modern features leaving customers in a disadvantage. Western Wireless believes implementing LNP will provide the switch updates necessary to allow SWTC customers to enjoy other modern communications benefits.

14. Western Wireless believes that because SWTC's parent company, TDS, has implemented LNP in other states that LNP implementation in Arizona is in the public interest, is feasible and should be done.

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

16. SWTC indicated that the EUDCs associated with implementing LNP do not include network upgrade costs. The methodology used to determine the EUDCs consists of the combined LNP Software, other Vendor and Translation Costs divided by the number of customers and the dividing that number by 60 (the number of months the FCC has allowed LNP to be paid off). The FCC's Third Report and Order requires that the EUDC consists of "carrier-specific costs directly related to providing long-term number portability." Although the software needed to implement LNP is not excessively expensive, SWTC's low number of access lines combined with the 60 month timeframe to pay these software costs are what produce the EUDC charges.

1 17. Ultimately, SWTC is required to file its proposed EUDCs and supporting
2 documentation with the FCC. The FCC will then review and approve the final EUDC's to be
3 charged by SWTC.

4 18. In determining the EUDC of LNP on its end users, ILECS have the following 3
5 choices:

- 6 A. Determine EUDCs on a per exchange basis.
- 7 B. Determine EUDCs on a companywide basis.
- 8 C. Determine EUDCs on a system-wide basis.

9 19. In its application, SWTC indicated that it had determined the EUDC of
10 implementing LNP on a companywide basis. Many other ILECS, including QWEST Corporation
11 ("Qwest") and Citizens Telecommunications Companies ("Citizens"), have also determined
12 EUDCs on a companywide basis as sometimes it is less financially burdensome to its end users to
13 implement LNP this way. The EUDC of implementing LNP for Qwest is \$0.43 and \$0.34 for
14 Citizens. SWTC indicated that its total cost of implementing LNP is \$60,516. When this figure is
15 divided by 4836 (the total number of SWTC customers company wide) and then divided by 60 (the
16 number of months the FCC has allowed companies to recoup LNP costs), the EUDC of
17 implementing LNP is \$0.21 per access line (see Attachment A). If TDS were to calculate the
18 EUDC on a system-wide basis, the EUDC may be lower than \$0.21 per access line.

19 20. In responses to Staff Data Requests, SWTC's parent company, TDS, also indicated
20 that as of April 15, 2004:

- 21 A. TDS had 24 offices in 10 states, serving less than 1000 access lines, requesting
22 suspension of LNP implementation obligations. No decisions regarding the
petitions had been rendered.
- 23 B. TDS was planning to implement LNP, in rate centers with less than 1000 access
24 lines, in 50 instances on or before May 24, 2004.
- 25 C. TDS was planning on implementing LNP in 34 rate centers, serving less than 1000
26 access lines, on or before November 24, 2004.
- 27 D. The remaining 15 rate centers (including Arizona) do not yet have LNP
28 implementation dates.

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

22. In its June 11, 2004 response to Staff's data requests, TDS indicated that in 2002, SWTC's average Capital Budget per line was in excess of \$19.00 less than the average Capital Budget per line for all of TDS' offices. For 2003, SWTC's average Capital Budget per line was in excess of \$99 less than the average Capital Budget per line for all of TDS's offices. For 2004, TDS projects that SWTC's average Capital Budget per line will be in excess of \$91.00 less than the average Capital Budget per line for all of TDS' offices.

23. SS7 is a type of signaling that, among other things, allows features such as caller ID so that its customers on the receiving end of a telephone call may receive information about the person calling as the phone rings. An example of this would be a business addressing a caller by his/her name and having their past calling history (if applicable) on a computer screen before the business picks up the phone. In its June 11, 2004 response to Staff's data requests, SWTC indicated that its Arizona switches are SS7 capable.

24. In its June 11, 2004 response to Staff's data requests, SWTC indicated that its forecasted Capital Budget for 2004 is \$332,720. TDS provided its forecasted Capital Budget for 2004 on a confidential basis. The LNP implementation costs submitted by SWTC equal \$60,516 when combined and account for 18.1% of SWTC's Capital Budget and less than 0.1% of TDS' Capital Budget.

...

1 25. SWTC indicated that it believes switch replacement prior to the implementation of
2 LNP would be in the best interest of its customers. On May 28, 2004, SWTC indicated that it
3 plans to replace its switch in approximately two years.

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

7 27. Of the 40 suspensions that have been granted, 11 have implementation suspension
8 periods that end on November 24, 2004, and 14 suspension periods end between November 25,
9 2004 and May 24, 2005. The remaining 15 suspension periods end after May 25, 2005. No
10 suspensions requesting indefinite waivers have been granted.

11 28. The FCC clearly stated that LNP implementation is mandatory and ordered the
12 deadline of May 24, 2004 for implementation. The FCC also clearly stated that suspensions of
13 LNP obligations may only be granted if there will be severe economic impact, the costs are overly
14 burdensome or if LNP implementation is technically infeasible.

15 29. Staff believes that upgrading SWTC's switches to provide LNP would give
16 SWTC's customers services that, until now, have been enjoyed by the customers of urban LECs.
17 Implementation of LNP would promote competition by allowing consumers to move to carriers
18 that may better serve their needs without having to give up their telephone numbers.

19 30. TDS indicated that it has or plans to have LNP implemented in over 92% of its
20 offices by November 24, 2004. Staff has not been provided with information to indicate that
21 SWTC's offices should not have LNP implemented after November 24, 2004.

22 31. While the software costs of implementing LNP account for 18.1% of SWTC's
23 forecasted 2004 Capital Budget, these costs account for less than 0.1% of TDS's forecasted 2004
24 Capital Budget. Staff does not believe this figure imposes a requirement that is unduly
25 economically burdensome. SWTC indicated that the monthly EUDC of implementing LNP would
26 be \$.21 per line. Staff does not find an EUDC of \$.21 to be unduly economically burdensome.

27 32. Although SWTC has indicated that it plans to replace its switches in two years, it
28 has also indicated that "no system upgrades are required to maintain the same level of high quality

1 and reliable service which exists today.” Because of this, Staff does not believe that LNP
2 obligations should be suspended until SWTC replaces its existing switches.

3 33. Staff understands that SWTC currently does not have the infrastructure needed to
4 implement LNP. Staff believes that implementation of LNP on or before November 24, 2004 is
5 technically infeasible. For example, in Exhibit 3 of its reply comments in an Oklahoma
6 proceeding, TDS’ witness stated that with one switch vendor, switches could “be delivered within
7 40 work days, and that they could be installed within 67 work days of receipt².” Staff believes a
8 suspension past this date would not be appropriate.

9 34. Staff recommends that SWTC file the EUDC charges ultimately approved by the
10 FCC in a compliance filing with this Commission within 30 days of the FCC’s determination.

11 35. Staff recommends that SWTC provide its customers with notification of the LNP
12 surcharge, in the form of either a bill insert or on the bill itself, no less than 60 calendar days prior
13 to the surcharges appearing on their bills. Staff also recommends that SWTC provide a copy of its
14 customer notification 30 days prior to the date they are sent to its customers, for Staff review.

15 36. Staff believes that SWTC’s implementation of LNP by November 24, 2004, will
16 promote competition in the telecommunications industry.

17 37. Staff recommends a suspension of SWTC’s LNP obligations, in all its exchanges,
18 until November 24, 2004.

19 CONCLUSIONS OF LAW

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

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

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

26 ...

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

ORDER

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

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

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IT IS FURTHER ORDERED that SWTC file the EUDC charges ultimately approved by the FCC in a compliance filing with this Commission within 30 days of the FCC's determination.

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

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION


CHAIRMAN

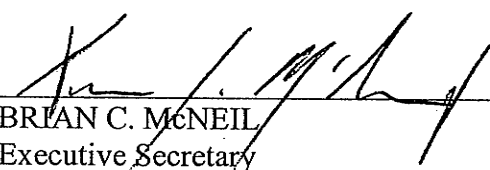
COMMISSIONER


COMMISSIONER


COMMISSIONER


COMMISSIONER

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


BRIAN C. McNEIL
Executive Secretary

DISSENT: _____

DISSENT: _____

EGJ:AJL:lhmm\MAS

1 SERVICE LIST FOR: Southwestern Telephone Company
2 DOCKET NO. T-01072B-04-0010

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Table 1

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

Southwestern Telephone Co. (1) Quartzsite/Salome	Access Lines	Switch Device	Switch Upgrade Costs					Distributed Cost Total/AL/60	End User Direct Cost (3)/AL/60	Porting Rate 0.032
			Release	(3) LNP Software	NP Software	(3) Other Vendor	(3) Translations			
	4,836	DCO	\$ 114,000	\$ 29,016	\$ 19,344	\$ 23,500	\$ 8,000	\$ 193,860	\$ 0.67	155

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

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

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

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 MARC SPITZER
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6 KRISTIN K. MAYES
Commissioner

Arizona Corporation Commission

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

DOCKET NO. T-02063A-04-0010

DECISION NO. 67110

ORDER

12
13 Open Meeting
14 July 6 and 7, 2004
Phoenix, Arizona

15 BY THE COMMISSION:

16 FINDINGS OF FACT

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

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

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

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

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

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

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

17 (A) is necessary-

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

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

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

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

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

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

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

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

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

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

28 ...

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 ...

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

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

3 CONCLUSIONS OF LAW

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

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

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

10 ORDER

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

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

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28 ...

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

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

BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

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

BRIAN C. McNEIL
Executive Secretary

DISSENT: _____

DISSENT: _____

EGJ:AJL:lhM\MAS

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

3 Mr. Jeffrey W. Crockett
4 Snell & Wilmer
5 One Arizona Center
6 400 East Van Buren Street
7 Phoenix, Arizona 85004-0001

8 Mr. Michael W. Patten
9 Roshka Heyman & DeWulf, PLC
10 One Arizona Center
11 400 East Van Buren Street, Suite 800
12 Phoenix, Arizona 85004

13 Mr. Ernest G. Johnson
14 Director, Utilities Division
15 Arizona Corporation Commission
16 1200 West Washington
17 Phoenix, Arizona 85007

18 Mr. Christopher C. Kempley
19 Chief Counsel
20 Arizona Corporation Commission
21 1200 West Washington
22 Phoenix, Arizona 85007

Attachment A

67110

Arizona Telephone Company

	Blue Ridge/Mormon Lake	1,511	DCO-SE	\$	162,000	\$	15,000	\$	10,000	\$	13,500	\$	8,000	\$	208,500	\$	2.30	\$	0.40	48
(1)	Greenhaven	243	MDX-384		81,729		89,314								171,043		11.73		6.13	7
(1)	Harquahala	215	MDX-384		108,971		89,314								198,285		15.37		6.92	8
(1)	Hyder	303	MDX-384		190,700		178,628								369,328		20.32		9.83	10
	Marble Canyon	110	MDX-384		63,395		86,563								149,958		22.72		13.12	4
(2-T)	Roosevelt	657	DCO-SE		162,000		15,000		10,000		13,500		8,000		208,500		5.29		0.93	21
	Sasabe	102	MDX-384		36,524		86,563								123,087		20.11		14.14	3
	Supai	127	MDX-384		48,700		86,563								135,263		17.75		11.36	4
	Tonto Basin	858	DCO-SE		162,000		15,000		10,000		13,500		8,000		208,500		4.05		0.71	27
Totals		4,126			\$1,016,019		\$661,945		\$30,000		\$40,500		\$24,000		\$1,772,464					132

- (1) LNP requests received from Western Wireless on 1/17/03
- (2) Top 100 MSA and MSA indicator, T=Tucson, P=Phoenix
- (3) Directly recovered End User costs, to distribute over 60 months