

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

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

CASE NO. TO-2004-0401

SURREBUTTAL TESTIMONY

OF

RON WILLIAMS

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

July 16, 2004

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OF
RON WILLIAMS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

² In the Matter of Telephone Number Portability, CTIA Petitions for Declaratory Ruling on Wireline-Wireless Porting Issues, CC Docket No. 95-116, FCC 03-284 ¶28 (rel. November 10, 2003). “*Intermodal Porting Order*” – **attached to Rebuttal Testimony of Ron Williams** (July 2, 2004) as **Exhibit RW-1.**

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

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

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

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

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

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

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

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

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

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

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

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

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

19 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3
4 “4. Regardless of the status of a carrier’s obligation to provide
5 number portability, all carriers have the duty to route calls to
6 ported numbers. In other words, carriers must ensure that their call
7 routing procedures do not result in dropped calls to ported
8 numbers.”
9

10 And then in paragraph 5:

11
12 “...the Commission clearly imposed requirements on the carrier
13 immediately preceding the terminating carrier, designated the ‘N-1
14 carrier’, to ensure that number portability databases are queried
15 and thus that calls are properly routed.”
16

17 And then in paragraph 13: Responsibility is clearly assigned to the
18 N-1 carrier:
19

20 “This report specifically states that where the N-1 carrier, either a
21 LEC or an IXC, is not LNP-capable, the N-1 carrier ‘should
22 arrange with [another carrier] to terminate default routed calls.’”
23

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

⁸ *Intermodal Porting Order* ¶ 27.

⁹ 47 U.S.C. § 153(30)

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

7

8

VIII. CONCLUSION

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

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

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

18

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

20 A. Yes, it does.

21