

Exhibit No. _____
Issue: Suspension and Modification of LNP
Requirements
Witness: Ron Williams
Type of Exhibit: Surrebuttal Testimony
Sponsoring Party: Western Wireless
Case Nos. TO-2004-0504 (Cass County)
 TO-2004-0505 (Craw-Kan)
Date: July 16, 2004

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

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

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 the Petitioners’ request of modification of rules related to LNP. My testimony will
13 address the following issues raised in Ms. Dietrich’s testimony:

- 14 ▪ **Transport of local calls to ported numbers does not result in a LEC**
15 **“operating much like an interexchange carrier”.**
- 16 ▪ **Transport of calls to ported numbers does not result in economic harm to**
17 **the Petitioners or their customers.**
- 18 ▪ **Western Wireless does not support a modification of FCC rules related to**
19 **Petitioner routing obligations.**
- 20 ▪ **The recommendation of the Staff is misplaced.**
- 21 ▪ **The result of the Commission’s earlier orders on similar LNP Petitions**
22 **has compromised the negotiations to resolve these Petitioners’ concerns**
23 **short of Commission Order.**

24 **II. TRANSPORT OF LOCAL CALLS TO PORTED NUMBERS DOES NOT**
25 **RESULT IN THE PETITIONERS ‘OPERATING MUCH LIKE AN**
26 **INTEREXCHANGE CARRIER’.**

27 **Q. MS. DIETRICH TAKES THE POSITION THAT TRANSPORTING CALLS TO PORTED**
28 **NUMBERS COULD RESULT IN THE PETITIONERS “OPERATING MUCH LIKE AN**

1 **INTEREXCHANGE CARRIER” (DIETRICH REBUTTAL TESTIMONY, P. 4, LL. 14-17). IS THIS AN**
2 **ACCURATE CONCLUSION?**

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

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

11 A. Yes. The FCC has made explicit that this intermodal call is within the local calling
12 area and these calls maintain their rate center designation.¹

13 **III. TRANSPORT OF CALLS TO PORTED NUMBERS DOES NOT RESULT IN**
14 **ECONOMIC HARM TO THE PETITIONERS OR TO THEIR END USERS.**

15 **Q. MS. DIETRICH TAKES THE POSITION THAT TRANSPORTING CALLS TO PORTED**
16 **NUMBERS MAY RESULT IN ECONOMIC HARM (REBUTTAL P.4, LLS. 18-19). WHAT**
17 **EVIDENCE DOES MS. DIETRICH OFFER TO SUPPORT HER POSITION?**

18 A. Ms. Dietrich offers no data and no analysis of the economic burden claims made by
19 the Petitioners.

20 **Q. HAVE THE PETITIONERS PROVIDED ANY EVIDENCE TO SUPPORT THIS CLAIM?**

21 A. No. The Petitioners have merely stated a range for the cost of theoretically
22 prolonged negotiations with SBC. Although SBC is one source for routing calls to

¹ 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 ported numbers, it is not the only solution. Neither is it appropriate to assume that
2 negotiations with SBC would be prolonged. I believe SBC has standard provisions
3 for tandem transit services and I know that SBC has many existing arrangements in
4 Missouri that provide for tandem transit.

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

7 A. Yes. An estimate of the volume and length of local calls to a ported number could be
8 developed based on current local calling characteristics. This could be used to
9 develop a monthly traffic volume based on the aggregate quantity of ported numbers.
10 Then the monthly traffic volume could be used to estimate the amount to be paid to a
11 transit provider. Here is an example: Assuming an aggregate of 100 ported numbers,
12 a daily volume of 6 local calls originated to each of these numbers at a length of 3
13 minutes per call, and a transit rate of \$.005 per minute of use, the monthly transit
14 usage cost would be \$270. Given the operating characteristics of the Petitioners, it
15 would be difficult to construe this cost as an undue economic burden for complying
16 with its obligations under the law.

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

19 A. Yes. The Minnesota Commission recently issued an order in an LNP suspension
20 proceeding.² The proceeding involved a request by the Minnesota LECs for a brief
21 suspension of LNP obligations to enable them to complete the implementation of a

² 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-5**.

1 tandem routing solution for their obligation to route traffic to ported numbers even
2 though no direct connection existed with the terminating carrier.

3 **Q. WHO CAME UP WITH THE APPROACH BEING IMPLEMENTED BY THE MINNESOTA**
4 **LECS?**

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

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

12 and

13 “...the Companies have focused on the eminently reasonable
14 solution of making use of the very same facilities used by the
15 CMRS providers to deliver traffic to the Companies.”(Petition, at
16 p.10)³

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

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

21 A. I don’t see why not. The current network configuration between the Petitioners and
22 SBC is very similar to the configuration in place between Minnesota LECs and
23 Qwest.

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

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, Petition, pp. 5, 10.

1 A. No. The planned arrangements in Minnesota are a mirror image of the way most
2 wireless carriers deliver traffic to the Petitioners in Missouri. This tandem routed
3 approach to the exchange of traffic between two carriers is utilized today. I have
4 attached a series of three diagrams that show how the tandem routing approach is
5 used today, how it differs from direct connections, and how it could be utilized by
6 the Petitioners' to meet their LNP routing obligations. (*See Exhibit RW-6*)

7 **IV. WESTERN WIRELESS DOES NOT SUPPORT A MODIFICATION OF FCC**
8 **RULES RELATED TO PETITIONER ROUTING OBLIGATIONS.**

9 **Q. MS. DIETRICH IS OF THE OPINION THAT WESTERN WIRELESS SUPPORTS A**
10 **MODIFICATION OF THE FCC RULES (DIETRICH REBUTTAL, P. 7, LL. 1-6). IS SHE**
11 **CORRECT IN HER OPINION?**

12 A. No. Western Wireless does not support any modification of FCC rules in response to
13 these Petitions. The comments, cited by Ms. Dietrich in the 'on-the-record'
14 presentation in early May, were made in the interest of a prompt resolution of the
15 Petitioners' only stated obstacle to implementation of LNP. Western's 'offer' was
16 made in the context and spirit of a timely negotiated resolution of the pending matter
17 and was designed to resolve any uncertainty involving compensation for dealing with
18 traffic destined to ported numbers that involved separate rating and routing points.⁴
19 To suggest that these comments serve to endorse the recommendation made by the
20 Staff is a gross misrepresentation of Western's position.

⁴ See "*Intermodal Porting Order*" ¶40 -- **RW Exhibit 1 (Rebuttal Testimony of Ron Williams)**

1 **V. THE RECOMMENDATION OF THE STAFF IS MISPLACED.**

2 **Q. HAVE THE PETITIONERS OR STAFF ESTABLISHED SUFFICIENT GROUNDS FOR A**
3 **SUSPENSION OR A MODIFICATION OF FCC RULES?**

4 A. They don't even come close to providing sufficient basis for the Missouri Public
5 Service Commission to suspend or modify the Petitioners' LNP obligations. The
6 Petitioners and Ms. Dietrich have not claimed technical infeasibility in their
7 testimony. The Petitioners have provided unsubstantiated estimates of a potential
8 cost for hypothetical negotiations of routing arrangements and have identified those
9 potential costs as an economic burden. Petitioners have offered no actual evidence of
10 cost in the record of this case. Ms. Dietrich has provided no further information on
11 economic burden. Neither the Petitioners nor Ms. Dietrich have provided metrics that
12 would indicate any cost incurred would be undue in relation to any aspect of the
13 Petitioners' business (e.g., no comparison is made to any financial indices relevant to
14 any aspect of the Petitioners balance sheets, income statements, or cash flows nor has
15 a comparison been made to other similarly situated LECs that have implemented
16 LNP). Finally, no evidence has been provided by Petitioners or Ms. Dietrich that any
17 claimed Petitioner cost of implementing LNP results in a "significant adverse
18 economic impact on users of telecommunications services generally." Since these
19 Section 251(f)(2) criteria for suspension or modification of FCC rules have not been
20 met, the Commission cannot accept the recommendations of the Staff and cannot
21 grant the Petitions in these cases.

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

24 A. The recommendation to modify the FCC rules conflicts with at least two significant
25 FCC orders involving LNP. The FCC has addressed the obligation of routing traffic

1 to ported numbers in the Intermodal Porting Order (§39) and more extensively in
2 dealing with CenturyTel's misrouting of calls destined to ported numbers (including
3 routing of calls to intercept messages).⁵ Here is how the FCC distinguished routing
4 from LNP obligations in the CenturyTel Notice of Forfeiture:

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

11
12 And then in paragraph 5:

13
14 "...the Commission clearly imposed requirements on the carrier
15 immediately preceding the terminating carrier, designated the 'N-1
16 carrier', to ensure that number portability databases are queried
17 and thus that calls are properly routed."

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

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

25
26 Further evidence of the FCC's directive on LEC obligations to route properly to
27 ported numbers can be gleaned from the very recent FCC Order involving a Consent

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.

1 Decree with CenturyTel.⁶ Among many components of the Compliance Plan agreed
2 to by CenturyTel, routing to ported numbers is addressed:

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

7 Further, removing the obligation of the originating carrier to route calls to
8 ported numbers (see Dietrich Rebuttal p. 7, ll. 22-23 and p. 8, ll. 1-3),
9 imposes a de facto obligation on a wireless carrier to establish an
10 interconnection agreement to establish facilities to receive traffic destined
11 to a number ported to their network. The imposition of interconnection
12 agreements as a precondition to intermodal porting is expressly prohibited
13 in the FCC’s Intermodal Order.⁷

14 **VI. THE COMMISSION’S EARLIER ORDERS ON LNP MODIFICATONS**
15 **HAVE NEGATIVELY IMPACTED THIS PROCEEDING AND THE PUBLIC**
16 **INTEREST.**

17 **Q. WHAT IMPACT HAVE THE MISSOURI PUBLIC SERVICE COMMISSION’S PREVIOUS**
18 **LNP ORDERS HAD ON THIS PROCEEDING?**

19 A. The LNP Orders already issued by the Commission have removed parity from the
20 negotiations between Western Wireless and the Petitioners in this proceeding. The

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-7**.

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

1 grant of modification and delay on the basis of very limited evidence has had an
2 inevitable chilling effect on the likelihood of the parties to this case reaching any
3 negotiated settlement.

4 **Q. IF PERMITTED TO STAND, WHAT IMPACT WILL THE COMMISSION’S PREVIOUS LNP**
5 **ORDERS HAVE ON MISSOURI CONSUMERS?**

6 A. The orders will have two impacts on Missouri consumers. Most significantly, the
7 orders are likely to further delay the implementation of LNP and competitive choice
8 in some LEC service areas as a result of the unwarranted imposition of additional
9 costs on competitive service providers. Additionally, the structure of the
10 Commission’s rule modification imposes a potentially inefficient network
11 interconnection solution that results in higher costs for all consumers. Finally, to the
12 extent that Commission Orders conflict with Federal law and exceed the limits of the
13 Commission’s authority, they are susceptible to court challenges which will impose
14 additional burdens on all parties.

15 **VII. CONCLUSION**

16 **Q. DOES MS. DIETRICH’S TESTIMONY ADDRESS WHETHER THE PETITIONERS HAVE**
17 **MET THE STANDARD FOR SUSPENSION OR MODIFICATION OF LNP OBLIGATIONS?**

18 No. Ms. Dietrich does not rely on the statutory standards in making the
19 recommendations in her testimony. Further, Ms Dietrich’s testimony provides no
20 additional information relevant to the statutory criteria for assessing the Petitioner’s
21 merits for being granted a suspension or modification of LNP obligations.

22 The Commission should reject the Petitioners’ arguments for modification of LNP
23 obligations, deny their request, and order the Petitioners to implement LNP consistent
24 with obligations arising from receipt of a bona fide request.

25

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

2 A. Yes, it does.

3