

Exhibit No. _____
Issue: Suspension of LNP Requirements
Witness: Ron Williams
Type of Exhibit: Rebuttal Testimony
Sponsoring Party: Western Wireless
Case No. TO-2004-0401 (KLM LNP)
Date: July 2, 2004

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

CASE NO. TO-2004-0401

REBUTTAL TESTIMONY

OF

RON WILLIAMS

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

July 2, 2004

****Denotes Proprietary Information****

NP

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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. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6 A. I am employed as Director – InterCarrier Relations by Western Wireless Corporation.
7 My duties and responsibilities include developing effective and economic
8 interconnection and operational relationships with other telecommunications carriers,
9 including the establishment of local number portability (“LNP”) arrangements and
10 interconnection agreements. I work with other departments within Western Wireless
11 to assess company interconnection and LNP needs and interface with carriers to
12 ensure arrangements are in place to meet the operational objectives of the company.

13 **Q. PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND.**

14 A. I have a BA in Accounting and a BA in Economics from the University of
15 Washington. I also have a MBA from Seattle University.

16 **Q. FOR WHOM ARE YOU TESTIFYING IN THIS PROCEEDING?**

17 A. I am testifying on behalf of WWC Holding Company ("Western Wireless"), which
18 provides commercial mobile radio services ("CMRS") in the state of Missouri under
19 the brand name CellularOne.

20 **Q. WHAT IS YOUR PROFESSIONAL EXPERIENCE IN THE FIELD OF**
21 **TELECOMMUNICATIONS?**

22 A. I have ten years experience working for GTE (now Verizon), including six years in
23 telephone operations and business development, and four years in cellular operations.
24 I also have two years experience in start-up CLEC operations with FairPoint

1 Communications. Since August 1999, I have worked for Western Wireless, first as
2 the Director of CLEC operations and, more recently, in my current position in
3 Industry Relations and as a project lead for implementation of LNP and
4 interconnection with other carriers.

5 **Q. HAVE YOU TESTIFIED BEFORE ON BEHALF OF WESTERN WIRELESS?**

6 A. Yes, I have testified as the Company's witness in several interconnection arbitration
7 proceedings. Recently, I have testified in LNP suspension matters in Nebraska, New
8 Mexico, and South Dakota.

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

10 A. The purpose of my testimony is to challenge KLM's request for suspension of
11 federally mandated number portability obligations. My testimony will address the
12 following issues:

- 13 ▪ **What are KLM's obligations to implement LNP and what are the**
14 **standards for suspension of those obligations?**
- 15 ▪ **Are there any real operational or technical roadblocks to KLM's**
16 **implementation of number portability as required by FCC rules?**
- 17 ▪ **Is there any evidence of undue economic burden associated with KLM's**
18 **implementation of local number portability?**
- 19 ▪ **What is the issue with respect to transport costs and what is the impact**
20 **on KLM to resolve this transport issue?**
- 21 ▪ **Does KLM make a valid claim that LNP in their service area is not in the**
22 **public interest?**

23 My testimony addresses the standards that should apply in resolving this Petition and
24 presents the positions of Western Wireless on the issues identified above. For each of
25 the issues, I will identify the applicable standard, establish the facts relevant to a

1 determination, and recommend to the Missouri Public Service Commission
2 ("Commission") an appropriate resolution.

3 **Q. HAS THE FCC ALREADY ADDRESSED THE SAME ISSUES RAISED IN THIS PETITION?**

4 A. The FCC has asserted jurisdiction over issues related to CMRS number portability by
5 citing its authority under Sections 1, 2, 4(i) and 332 of the Communications Act.¹ I
6 know that many rural ILECs applied to the FCC for a waiver, and a waiver was
7 granted in January this year. I am attaching the FCC order on rural intermodal LNP
8 implementation as Exhibit 1. This case raises the same issues that have already been
9 addressed by the FCC under its jurisdiction.

10 **Q. HAS THE FCC RECENTLY DECIDED ANY OTHER RURAL LNP IMPLEMENTATION**
11 **WAIVER OR SUSPENSION REQUESTS?**

12 A. Yes. Within the last two months the FCC issued at least three orders denying LNP
13 implementation suspensions for rural wireless and rural wireline carriers. In an order
14 released May 10, 2004 the FCC denied waiver and extension requests for three rural
15 wireless carriers who had claimed they did not receive sufficient notice to implement
16 LNP and that their rural status constituted special circumstances.² Similarly, on May
17 13, 2004 the FCC denied a waiver petition for temporary suspension made by North-
18 Eastern Pennsylvania Telephone Company (NEP); a rural LEC with eight

¹ *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, ¶ 155 (1996); *see also* *Mem. Op. and Order and Further Notice of Proposed Rulemaking*, ¶ 8, CC Docket No. 95-116, FCC 03-284 (rel. Nov. 10, 2003) "*Intermodal Porting Order*" – attached as Exhibit RW-1.

² In the Matter of Numbering Resource Optimization and Telephone Number Portability, Petitions of Advantage Cellular Systems, Inc., Corr Wireless Communications, LLC, and Plateau Telecommunications, Inc. for Limited Waiver and Extension of Porting and Pooling Obligations, CC Docket No. 99-200, 95-116, FCC 04-1291 (released May 10, 2004).

1 exchanges.³ NEP is planning to implement LNP in conjunction with a switch
2 replacement and argued that “it did not anticipate that intermodal porting would be an
3 ‘imminent’ requirement until the Commission’s Intermodal LNP Order released in
4 November 2003.” NEP also stated that service feature issues arose during
5 implementation planning that would mean that NEP would not meet the May 24,
6 2004 deadline for LNP implementation. In denying NEP’s request, the FCC
7 responded:

8 “We are not persuaded by NEP’s claims that special circumstances exist
9 warranting a waiver of the May 24, 2004 porting deadline in order to
10 accommodate NEP’s switch delivery and deployment schedule, and
11 provide additional time to resolve any service feature issues. We find
12 that NEP has not presented “extraordinary circumstances beyond its
13 control in order to obtain an extension of time.” NEP has not shown that
14 challenges it may face are different from those faced by similarly
15 situated carriers who are able to comply. Generalized references to
16 limited resources and implementation problems do not constitute
17 substantial, credible evidence justifying an exemption from the porting
18 requirements. NEP has known since 1996 that it would need to support
19 LNP within six months of a request from a competing carrier. Although
20 wireless LNP was delayed, all carriers have been on notice since July
21 2002 that wireless and intermodal LNP would become available
22 beginning in November 2003. Thus, NEP has had sufficient time to
23 follow through with these mandates and prepare for LNP.”⁴

24 In this situation, which is similar to the instant petition, the FCC decision delivered a
25 clear and consistent message: The standards are very high for obtaining a waiver of
26 LNP obligations, the onus is on individual carriers to do all in their power to meet the

³ In the Matter of Telephone Number Portability, Petitions of The North-Eastern Pennsylvania Telephone Company for Temporary Waiver of its Porting Obligations, CC Docket No. 95-116, FCC 04-1312 (released May 13, 2004) – attached as Exhibit RW-2.

⁴ See supra ¶10

1 obligations, and difficulties which are similar to those faced by other carriers do not
2 constitute special circumstances worthy of any suspension. LNP is an FCC mandate
3 and it is clear the FCC expects enforcement of its implementation.

4 **II. WHAT IS THE OBLIGATION OF KLM TO IMPLEMENT LNP AND WHAT**
5 **ARE THE STANDARDS FOR SUSPENDING THAT OBLIGATION?**

6 **Q. IS KLM UNDER AN AFFIRMATIVE OBLIGATION TO IMPLEMENT LNP?**

7 A. Yes. All LECs have known since 1996 that they would be required to provide LNP.
8 Section 251(b)(3) of the Communications Act of 1934, as amended (“Act”), requires
9 all LECs to provide LNP.⁵ In its rules implementing the LNP requirements of the
10 Act, the FCC recognized that the public interest would be served by requiring carriers
11 to implement LNP in all areas, but conditioned the requirement to implement LNP in
12 rural areas on a carrier receiving a bona fide request (“BFR”) from another carrier.⁶

13 **Q. DID WESTERN WIRELESS SEND A BONA FIDE REQUEST TO KLM REQUESTING THE**
14 **IMPLEMENTATION OF LNP?**

15 A. Yes, just recently. In October and November 2003, Western Wireless sent bona fide
16 requests for LNP to many LECs that have overlapping service areas with Western
17 Wireless. Western Wireless has always planned to pursue LNP in additional
18 overlapping serving areas and is now in the process of issuing bona fide requests to a
19 second group of carriers which includes KLM.

20 **Q. WHAT IS THE STANDARD FOR GRANTING KLM’S REQUEST FOR A SUSPENSION OF ITS**
21 **LNP OBLIGATIONS?**

⁵ 47 U.S.C. § 251(b)(3).

⁶ 47 C.F.R. § 52.26.

1 A. Congress established a very high standard to be met for a LEC to obtain a suspension
2 of its LNP obligations. Section 251(f)(2) of the Act permits state commissions to
3 suspend a carrier's LNP obligations only:

4 to the extent that, and for such duration as, the State commission
5 determines that such suspension or modification —
6 (A) is necessary: (i) to avoid significant adverse impact on users of
7 telecommunications services generally; (ii) to avoid imposing a
8 requirement that is unduly economically burdensome; or (iii) to
9 avoid imposing a requirement that is technically infeasible; and
10 (B) is consistent with the public interest, convenience, and
11 necessity.⁷
12

13 Further, the FCC has stated: "Congress intended exemption, suspension, or
14 modification of the section 251 requirements to be the exception rather than the
15 rule.... We believe that Congress did not intend to insulate smaller or rural LECs
16 from competition."⁸

17 **Q. IF CONGRESS DID NOT INTEND TO INSULATE RURAL TELEPHONE COMPANIES FROM**
18 **COMPETITION, THEN HOW SHOULD THIS COMMISSION DETERMINE WHETHER OR**
19 **NOT TO SUSPEND KLM'S LNP OBLIGATIONS?**

20 A. KLM bears the burden of demonstrating that it meets the statutory standard for a
21 suspension of its LNP obligations. Although Section 251(f) of the Act provides that
22 rural carriers may obtain a suspension of their LNP obligations, the FCC has
23 concluded that a suspension is only appropriate under unique and compelling
24 circumstances:

25 Thus, we believe that, in order to justify continued exemption once a
26 bona fide request has been made, or to justify suspension or
27 modification of the Commission's section 251 requirements, a LEC

⁷ 47 U.S.C. § 251(f)(2).

⁸ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report & Order, 11 F.C.C.R. 15499, 16118 (1996) ("LNP First Report and Order").

1 must offer evidence that application of those requirements would be
2 likely to cause undue economic burdens beyond the economic burdens
3 typically associated with efficient competitive entry. State
4 commissions will need to decide on a case-by-case basis whether such
5 a showing has been made.⁹

6 **Q. IN THE ABSENCE OF THE IMPLEMENTATION DELAY ALREADY GRANTED TO RURAL**
7 **LECS BY THE FCC, WHAT ARE THE PREVAILING GUIDELINES FOR**
8 **IMPLEMENTATION OF LNP AND HOW DO THEY RELATE TO KLM'S SITUATION?**

9 KLM's testimony indicates two possible scenarios for implementing LNP in their
10 network. One scenario involves a modest investment in switch software to upgrade
11 their existing switches for LNP capability. The other scenario involves a complete
12 replacement of KLM's switching system for reasons unrelated to the implementation
13 of LNP. The FCC produced guidelines that suggest 60 days is sufficient time to
14 perform an LNP software upgrade and 180 days is sufficient for a switch
15 replacement. Local Number Portability requirements were established for all LECs in
16 Section 251(b)(3) of the Telecom Act in 1996¹⁰. Specific to the Petitioners in this
17 case, the FCC conditioned the requirement to implement LNP in rural areas on a
18 carrier receiving a BFR from another carrier.¹¹ While a rural carrier has six months
19 from receipt of a BFR to implement LNP, the FCC guidelines for switch preparation
20 indicate a much shorter time may be necessary:¹²

21 After the deadline for deployment of number portability in an MSA in
22 the 100 largest MSAs, according to the deployment schedule set forth
23 in the appendix to this part, a LEC must deploy number portability in

⁹ *LNP First Report and Order* at 16118.

¹⁰ 47 U.S.C. § 251(b)(3).

¹¹ 47 C.F.R. § 52.23(c).

¹² 47 C.F.R. § 52.23(b)(2)(iv).

1 that MSA in additional switches upon request within the following
2 time frames:

- 3 (A) For remote switches supported by a host switch equipped for
4 portability (“Equipped Remote Switches”), within 30 days;
- 5 (B) For switches that require software but not hardware changes to
6 provide portability (“Hardware Capable Switches”), within 60
7 days;
- 8 (C) For switches that require hardware changes to provide
9 portability (“Capable Switches Requiring Hardware”), within
10 180 days;
- 11 (D) For switches not capable of portability that must be replaced
12 (“Non Capable Switches”), within 180 days.

13 The language in the Act is clear: While LNP proceeded by decree for the majority of
14 telephone subscribers, number portability would be triggered by a Bona Fide Request
15 process in the rest of the country. Further, the BFR process established an
16 implementation interval (maximum) of 180 days.

17 The FCC reiterated this rule with respect to intermodal LNP on November 10, 2003
18 (Attached as Exhibit 3):

19 “Therefore for wireline carriers operating in areas outside of the 100
20 largest MSAs, we hereby waive, until May 24, 2004, the requirement
21 that these carriers port numbers to wireless carriers that do not have a
22 point of interconnection or numbering resources in the rate center
23 where the customer’s wireline number is provisioned.”¹³

24 Then, again, on January 16, 2004 the FCC spelled out the date that the
25 implementation of LNP should occur for the Petitioner in this docket:

26 “Accordingly, IT IS ORDERED that, pursuant to authority contained
27 in sections 1, 4(i), 251, and 332 of the Communications Act of 1934,
28 as amended, 47 U.S.C. §§ 151, 154(i), 251, 332, we GRANT a limited
29 waiver of the wireline-to-wireless porting requirement, until May 24,

¹³ 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 at 29 (rel. November 10, 2003) “*Intermodal Porting Order*” – attached as Exhibit RW-1.

1 2004, for local exchange carriers with fewer than two percent of the
2 nation's subscriber lines in the aggregate nationwide that operate in the
3 top 100 Metropolitan Statistical Areas and have not received a request
4 for local number porting from either a wireline carrier prior to May 24,
5 2004 or a wireless carrier that has a point of interconnection or
6 numbering resources in the rate center where the customer's wireline
7 number is provisioned.”¹⁴

8 There is nothing vague or indefinite about the LNP obligations imposed on the
9 Petitioners. This eventuality has been foreseeable for the eight years since the
10 Telecom Act was passed in February 1996. The FCC released its *Intermodal Porting*
11 *Order* more than 6 months ago. Clearly, the time that has already been provided to
12 KLM should be sufficient to meet their obligations.

13 **Q. SHOULD THE FACT THAT MANY SIMILARLY SITUATED LECs ARE NOT SEEKING A**
14 **DELAY OR SUSPENSION OF LNP IMPLEMENTATION MERIT CONSIDERATION IN THIS**
15 **PROCEEDING?**

16 A. Yes. The decision by many other independent telcos to prepare for implementation
17 rather than seek a delay or suspension is clear evidence that the implementation of
18 number portability by the May 24, 2004 deadline was achievable and implementation
19 with six months notice is achievable. Similarly situated rural LECs with similar
20 switch equipment are implementing LNP. My staff and I have been in contact with
21 many LECs in our serving area to work through questions or concerns in support of
22 their specific implementation efforts.

23 **Q. HAVE OTHER STATE COMMISSIONS RULED ON LEC LNP SUSPENSION REQUESTS?**

24 A. Yes. I am not familiar with all state commissions, but I do understand that the
25 Pennsylvania Commission concluded that “rural residents have as much right to

¹⁴ In the Matter of Telephone Number Portability, Small LEC Petitions for relief of the intermodal porting deadline of November 24, 2004, CC Docket No. 95-116, FCC 04-12 at 12 (rel. January 16, 2004). (See Exhibit RW-3)

1 competitive choices as their more numerous urban counterparts” and that as a result,
2 rural LEC suspension Petitioners “must present competent evidence that such relief is
3 necessary under Section 251(f)(2).”¹⁵ In response to requests for suspension of LNP
4 obligations, several state commissions have rejected rural LEC technical and/or
5 financial arguments in support of their LNP suspension requests.¹⁶ Notably, the
6 Michigan Public Service Commission denied LNP suspension to two small rural
7 LECs stating:

8 “The Commission is unconvinced that the burdens will
9 disproportionately affect the Petitioners as compared with other
10 carriers. Indeed, the Petitioners have been on notice since 1996 to
11 prepare for implementation of LNP and replacement of new switches
12 should have been completed prior to the implementation date Any
13 deferment of the FCC’s number portability requirements beyond that
14 time [May 24, 2004] would be anti-competitive and anti-consumer.”¹⁷

¹⁵ *Petition of Rural and Small Incumbent Local Exchange Carriers for Commission Action Pursuant to Section 251(f)(2) and 253(b) of the Telecommunications Act of 1996*, Docket Nos. P-00971177 and P-00971188, 1997 Pa. PUC LEXIS 146 at ¶44 (Pennsylvania Public Utility Commission, July 10, 1997).

¹⁶ *See, e.g., Petition by the Alliance of North Carolina Independent Telephone Companies for Limited Modification of the Requirement to Provide Number Portability, Order Dismissing Petition Without Prejudice*, Docket No. P-100, Sub 133r (North Carolina Utilities Comm’n, Oct. 7, 2003)(LNP suspension petition dismissed for failure to meet burden of proof); *Iowa Telecommunications Services*, Docket No. SPU-02-18 (SPU-02-19), 2003 Iowa PUC LEXIS 141 (Iowa Utilities Board, April 15, 2003)(LNP suspension petition denied for failure to meet burden of proof); *In the matter of the application of Waldron Telephone Company and Ogden Telephone Company for temporary suspension of wireline to wireless number portability obligations pursuant to §251(f)(2) of the federal Telecommunications Act of 1996, as amended*. Opinion and Order in Case Nos. U-13956 and U-13958). (Michigan Public Service Commission, February 12, 2004).

¹⁷ *In the matter of the application of Waldron Telephone Company and Ogden Telephone Company for temporary suspension of wireline to wireless number portability obligations pursuant to 251(j)(2) of the Federal Telecommunications Act of 1996 as amended*. (Opinion and Order in Case Nos. U-13956 and U-13958.) (Michigan Public Service Commission, February 12, 2004.)

1 There is an Order expected to be released by the Arizona Corporation Commission
2 mandating that Arizona Telephone Company implement LNP, including replacement
3 of obsolete switches serving very rural areas.¹⁸

4 **Q. HAVE OTHER STATES DEALT WITH LNP SUSPENSION PETITIONS IN A DIFFERENT**
5 **MANNER?**

6 A. Yes. Texas is a good example. The Texas Commission Staff was actively involved
7 in negotiating with rural telephone companies to shorten or withdraw their suspension
8 requests. The Staff was successful in resolving all ten original petitions¹⁹ but not
9 before they submitted the following testimony in the docket:

10 “I recommend the denial of the petitions of Valor and KTC to suspend
11 implementation until March 15, 2005 of the FCC’s Intermodal Order ...
12 I have determined that the Companies have failed to provide sufficient
13 information and demonstrate the stated factors pursuant to FTA
14 §251(f)(2) to justify an extension ... The Companies further failed to
15 demonstrate that implementation of intermodal LNP prior to March 15,
16 2005 would be inconsistent with the public interest, convenience and
17 necessity of Texas customers. I further conclude that the Companies
18 have failed to take steps to comply with the Intermodal Order in a timely
19 manner after receiving bona fide requests (BFR) for intermodal porting.
20 As a consequence I recommend that the Companies be held accountable
21 for non-compliance with FTA § 251(f)(2), if they are not LNP capable
22 by May 24, 2004. Thus, the Companies would be subject to applicable
23 FCC enforcement proceedings and/or state commission enforcement
24 action, if applicable.”²⁰

¹⁸ See Arizona Corporation Commission Docket T-02063A-04-0010, *In the Matter of the Emergency Petition of Arizona Telephone Company for Suspension of the Local Number Portability Obligations of Section 252(B)*.

¹⁹ See Texas SOAH Docket No 473-04-3034 PUC Docket 29278 “Petition of Wes-Tex Telephone Cooperative, Inc. et al, for Suspension of Wireless Number Portability Implementation.”

²⁰ Prefiled Direct Testimony of Stephen Mendoza, Telecommunications Division, Public Utility Commission of Texas in the matter of *Petition of Wes-Tex Telephone Cooperative, Inc. et al, for Suspension of Wireless Number Portability Implementation* SOAH Docket No. 473-04-3034, PUC Docket No. 29278, April 30, 2004. p.4, ll. 5-21 and p.5, ll. 1-8.

1 **III. ARE THERE ANY OPERATIONAL OR TECHNICAL ROADBLOCKS TO**
2 **KLM’S IMPLEMENTATION OF NUMBER PORTABILITY AS REQUIRED**
3 **BY FCC RULES?**

4 **Q. WHAT HAS KLM IDENTIFIED AS TECHNICAL ROADBLOCKS TO THE**
5 **IMPLEMENTATION OF NUMBER PORTABILITY?**

6 In their Petition and through discovery responses, KLM has not identified any
7 technical infeasibility as a basis for their requested suspension of LNP obligations.

8 **Q. WHAT ABOUT KLM’S CONCERN REGARDING THE ROUTING OF TRAFFIC TO**
9 **TELEPHONE NUMBERS THAT HAVE BEEN PORTED TO WIRELESS CARRIERS?**

10 A. KLM implies that routing local traffic originating on their networks and destined for a
11 number ported to a wireless carrier is not a feasibility concern. KLM has
12 characterized this routing issue as a potential economic burden. Western Wireless
13 believes there are economical ways to accomplish this routing that would not
14 constitute an undue economic burden.

15 **Q. WHY IS KLM RAISING A CONCERN REGARDING INTERMODAL PORTING AND ITS**
16 **LOCAL ROUTING OBLIGATIONS?**

17 A. Under some circumstances, when there is no physical interconnection between a LEC
18 and a wireless carrier, the LEC will need to route a call to the carrier that services the
19 ported number via a third party ‘transit’ provider. For example, this routing could use
20 common shared facilities to the LATA tandem as a means to deliver this traffic to the
21 appropriate terminating carrier. This is no different than the manner in which
22 wireless carriers terminate calls to many LEC exchanges in Missouri today.

23 **Q. WHAT WOULD HAPPEN IF THIS TYPE OF ROUTING OF LOCAL CALLS DID NOT OCCUR?**

24 A. A call that was local before a number ported would either not be completed or would
25 be required to be dialed as a toll call after the number was ported. Imagine a scenario

1 where your neighbor had to dial toll to reach your telephone number just because you
2 changed your service provider. It would make no sense.

3 **Q. IS THIS TYPE OF SEPARATE RATING AND ROUTING OF TRAFFIC A NEW PRACTICE?**

4 A. No. This practice is permitted under industry guidelines associated with the
5 assignment of telephone numbers by the North American Numbering Plan
6 Administrator (NANPA)²¹. In fact, Western Wireless has several implementations of
7 this throughout its service area.

8 **IV. IS THERE ANY EVIDENCE OF UNDUE ECONOMIC BURDEN**
9 **ASSOCIATED WITH KLM'S IMPLEMENTATION OF LOCAL NUMBER**
10 **PORTABILITY?**

11 **Q. WHAT IS THE STANDARD FOR ESTABLISHING AN "UNDUE ECONOMIC BURDEN"?**

12 A. Section 251(f)(2) permits the Commission to suspend a LEC's LNP obligation if such
13 action is "necessary to avoid imposing a requirement that is unduly economically
14 burdensome."²² The Ohio Commission has held that the statutory phrase, "unduly
15 economically burdensome," means economic burdens "beyond the economic burdens
16 typically associated with efficient competitive entry."²³ The facts contained in
17 KLM's Petition do not meet the standard that would lead one to conclude that LNP
18 implementation constitutes an undue economic burden.

19 **Q. HAVE YOU HAD ANY EXPERIENCE IN DEALING WITH LNP IMPLEMENTATION?**

20 A. Yes, I have had experience implementing LNP on Western Wireless' own network.

²¹ The Central Office Code (NXX) Administration Guidelines (COCAG), published by the Alliance for Telecommunications Industry Solutions on behalf of the Industry Number Committee, permit a carrier to receive a rate center number assignment and designate a routing point for calls to those numbers that are outside the rate center to which they are assigned.

²² 47 U.S.C. § 251(f)(2)(A)(ii).

²³ *Western Reserve Petition* at 13.

1 This entailed the upgrading of switches, integrating systems, implementing LNP
2 in a CLEC and in a wireless network and providing for SOA (Service Order
3 Administration) and LNP queries. I worked on these issues from an operational,
4 technical, and cost aspect.

5 **Q. KLM CLAIMS THAT ITS' ECONOMIC BURDEN ARISES FROM THE FACT THAT ITS**
6 **CURRENT SWITCHES WILL LOSE MANUFACTURER SUPPORT AT THE END OF 2007.**
7 **CAN YOU CHARACTERIZE THIS IMPACT FOR THE COMPANY AND ITS CUSTOMERS?**

8 A. The investment necessary to make KLM's Mitel switching system LNP compliant is
9 **** ____****. This investment represents less than **** _% **** of KLM's total switch
10 investment. While their current switch manufacturer may be withdrawing support for
11 this product at the end of 2007 (more than 40 months from now), this does not mean
12 the switch must be upgraded at that time. By KLM's own admission, early retirement
13 of the switch will impact their balance sheet and income statements much more
14 significantly than the modest investment necessary to make their switches LNP
15 capable. Further, KLM has conceded that any future switch replacement will include
16 LNP capability. Finally, KLM can recover the cost of this modest upgrade
17 investment over five years via the cost recovery methods made available in the FCC
18 rules.

19 **Q. ARE THE LNP MONTHLY RECURRING COST PROJECTIONS PROVIDED BY KLM A**
20 **REASONABLE APPROXIMATION OF THE COSTS?**

21 A. The recurring cost projections provided by KLM overstate two of the monthly
22 recurring charges for the operational costs of LNP. Both of these costs appear to be
23 charges assessed by service vendors for the processing of port transactions and
24 updating the national LNP database.

25 **Q. CAN YOU EXPLAIN HOW THESE RECURRING COSTS MAY BE OVERSTATED?**

1 A. Yes. KLM is claiming a monthly recurring cost for use of Neustar's "low tech
2 interface" which can be used to establish the 'port-in' of a number or release a
3 number to be 'ported out' once two carriers have agreed on the telephone number and
4 the date the number will be ported. Western Wireless believes it is not necessary for
5 KLM to use this 'semi-automated' approach to porting. The same vendor provides a
6 'help desk' method to accomplish the same process. That method has a cost of
7 ** ____ ** per port transaction. Using Western's estimate of 60 intermodal ports per
8 year (about 5 ports per month), the monthly cost should be reduced for this cost
9 category. KLM is also claiming a monthly recurring cost for "Verisign Porting
10 Charges" based on a minimum monthly fee. Western Wireless contends that the
11 Verisign functionality is, in part, redundant to the Neustar costs. The other features
12 that may be contained in the Verisign service are not justified if KLM's port volume
13 is in the range forecasted by Western Wireless.

14 **Q. HAVE YOU PREPARED AN ALTERNATIVE LNP COST ESTIMATE FOR KLM?**

15 A. Yes. I have attached Proprietary Exhibit 4A which reflects the modifications to KLM
16 costs that are consistent with my testimony. Also attached is Proprietary Exhibit 4B
17 which uses the costs identified in 4A, a forecast of KLM port volume, and the NECA
18 methodology that is used to derive a projected end user surcharge recovery fee for
19 LNP implementation. The methodology produces an estimated LNP cost recovery
20 from end users of ** ____ ** per month. It is KLM's discretion on whether to
21 recover LNP costs in this manner or absorb the costs as part of their ongoing
22 operations.

23 **Q. WHAT IS YOUR RECOMMENDATION ON KLM'S CLAIMS THAT THE COST OF LNP**
24 **IMPLEMENTATION IS UNDULY BURDENSOME?**

1 A. The bar has been set very high for granting an exception on the basis of the costs of
2 implementing local number portability. The KLM cost exhibit identifies non-
3 recurring switch upgrade costs for LNP that appear consistent with cost estimates
4 made by other carriers implementing similar upgrades to their Mitel switches.
5 KLM's estimated monthly recurring costs include some overstated costs that don't
6 stand-up to scrutiny. KLM has failed to demonstrate their costs are unduly
7 burdensome. Neither have they demonstrated that their costs are any different than
8 other rural wireless and wireline carriers that are implementing or have implemented
9 number portability.

10 **V. WHAT IS THE ISSUE WITH RESPECT TO TRANSPORT COSTS AND**
11 **WHAT IS THE IMPACT ON KLM TO RESOLVE THIS ISSUE?**

12 **Q. WHAT ARE THE ISSUES INVOLVING TRANSPORT COSTS ASSOCIATED WITH THE**
13 **ROUTING OF CALLS TO PORTED NUMBERS?**

14 A. In the Intermodal Porting order issued by the FCC in November 2004, the FCC
15 addressed the obligation to route traffic to ported numbers, but the FCC did not
16 address the issue of ultimate responsibility for the costs involved in routing traffic to
17 ported numbers.²⁴ It has been industry practice that carriers originating local traffic
18 have the obligation to deliver that traffic to the terminating carrier. Calls to a ported
19 number with the same rate center designation as the originating call are local calls.
20 Western takes responsibility for the cost of routing local calls to LECs today.
21 Western believes that LECs should have a reciprocal obligation to absorb the cost to

²⁴ 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 ¶¶ 39-40 (rel. November 10, 2003) "*Intermodal Porting Order*" – attached as Exhibit RW-1.

1 route local calls to Western Wireless. KLM takes the position that this routing, in the
2 absence of a direct point of interconnection would be “economically burdensome.”
3 (Warriner Direct p.7, ll. 7-10).

4 **Q. HAS WESTERN WIRELESS PROPOSED A MEANS TO RESOLVE THIS ISSUE PENDING AN**
5 **FCC DECISION ON THE MATTER?**

6 A. Yes, in the “On-the-record” presentation hosted by the Commission on May 5, 2004,
7 Western Wireless extended the offer to reimburse KLM for indirect transit costs
8 associated with the routing of calls to numbers ported from KLM to Western
9 Wireless. The offer allowed for reimbursement at a rate equivalent to what Western
10 Wireless pays to SBC for similar transit routing from Western’s network to KLM’s
11 network. The offer was extended as an interim solution, until such time as the FCC
12 issued an order on the matter in the Sprint petition for declaratory ruling.²⁵ Further,
13 the offer was extended with the expectation and contingent upon KLM’s timely
14 implementation of LNP.

15 **Q. WHAT IMPACT WOULD WESTERN’S OFFER HAVE ON KLM’S COST CLAIMS?**

16 A. The offer should be sufficient to cover KLM’s costs of routing traffic to numbers
17 ported to Western Wireless assuming KLM uses the most economical means to route
18 that traffic. KLM’s cost claims of a ‘very costly’ negotiated arrangement with a third
19 party carrier are unwarranted given the number of interconnection arrangements in
20 Missouri that could be adopted by KLM for transit purposes.

²⁵ See, In the Matter of Sprint Petition for Declaratory Ruling, Obligation of Incumbent LECs to Load Numbering Resources Lawfully Acquired and to Honor Routing and Rating Points Designated by Interconnecting Carriers, Sprint Petition for Declaratory Ruling, CC Docket No. 01-92 (filed July 18, 2002).

1 **Q. SHOULD MR. COPSEY’S ARGUMENTS CONCERNING TOLL ROUTING OF CALLS TO**
2 **PORTED NUMBERS CAUSE THE COMMISSION CONCERN?**

3 A. Yes, if KLM does not meet their routing obligations as an originator of local
4 telecommunications traffic to ported numbers. Mr. Copsey’s testimony (Direct p.9,
5 lls.12-16) implies that KLM will misroute calls to ported numbers as toll calls. This
6 would be in clear violation of the FCC’s rules:

7 “a wireless carrier porting-in a wireline number is required to maintain
8 the number’s original rate center designation following the port. As a
9 result, calls to the ported number will continue to be rated in the same
10 fashion as they were prior to the port.”²⁶

11 This is consistent with the Telecom Act’s definition of LNP:

12 “The ability of users of telecommunications services to retain, at the
13 same location, existing telecommunications numbers without
14 impairment of quality, reliability, or convenience when switching from
15 one telecommunications carrier to another.”²⁷

16 **Q. DOES KLM HAVE LNP ROUTING OBLIGATIONS THAT TRANSCEND ANY SUSPENSION**
17 **OF INTERMODAL LNP IMPLEMENTATION?**

18 A. Yes they do. In a Notice of Apparent Liability for Forfeiture, released by the Chief,
19 Enforcement Bureau of the FCC, the FCC maintains that:

20 Regardless of the status of a carrier’s obligations to provide number
21 portability, all carriers have the duty to route calls to ported numbers.
22 In other words, carriers must ensure that their call routing procedures
23 do not result in dropped calls to ported numbers.”²⁸

24 Granting a delay to KLM would seem to exacerbate any problem they may have with
25 respect to routing obligations. KLM may provide service in local calling areas that

²⁶ Intermodal Porting Order at ¶ 27.

²⁷ 47 U.S.C. § 153(30).

²⁸ 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, ¶ 4.

1 are common to another local exchange carrier's rate center that has already
2 implemented number portability. In the event a number is ported in that rate center
3 (wireless-to-wireless or wireline-to-wireless), the FCC has made it clear that a carrier
4 is still obligated to route calls to ported numbers.

5 **VI. DOES KLM MAKE A VALID CLAIM THAT LNP IS NOT IN THE PUBLIC**
6 **INTEREST IN ITS SERVICE AREA?**

7 **Q. DOES KLM'S CLAIM OF LACK OF DEMAND FOR NUMBER PORTABILITY RING TRUE?**

8 A. No. The fact is, number portability has proven to be an enabler of competition
9 wherever it has been implemented. That is the case here in Missouri. SBC has
10 experienced a substantial loss of customers to competitors since the advent of number
11 portability. There is, however, a difference in what the FCC ordered to happen on
12 May 24, 2004. Instead of just adding more competitors to Missouri's urban markets,
13 intermodal LNP enables wireless carriers to compete effectively for customers in
14 areas that have not previously been exposed to competition. KLM has claimed an
15 estimated port volume of 3 customers over a six month period (Warriner Direct P.9
16 l.6). Western Wireless believes KLM is more likely to experience an intermodal port
17 volume of 300 ports over a five year period.

18 **Q. IS THERE ANY REASON WHY THE COMPETITIVE CHOICE, ENABLED BY NUMBER**
19 **PORTABILITY SHOULD BE DELAYED FOR THE CUSTOMERS OF KLM?**

20 A. No. Although KLM has sought relief from number portability requirements through
21 this proceeding, there is no reason why the competitive choice, enabled by number
22 portability, and already available to most people in Missouri, should be delayed for
23 KLM's customers.

24 **Q. ARE THERE ANY INDUSTRY PROJECTIONS FOR THE POTENTIAL OF SUBSTITUTION OF**
25 **WIRELINE SERVICE BY WIRELESS?**

1 A. Yes, many industry watchers are projecting that intermodal number portability will
2 open the door to increased competition and accelerated substitution of wireless for
3 wireline services. Here are some excerpts of a Cato Industry report summarizing the
4 impact of wireless substitution²⁹: “Wired Magazine recently reported that roughly
5 3% of homes have dropped their landlines and 8% are expected to follow suit in the
6 next five years.” “A more recent study by PriMetrica, Inc. suggested that roughly
7 half of U.S. households would be willing to dump wireline for cellular ...”. “And
8 now comes the number portability decision, . . . ‘I think it will certainly increase the
9 move toward substituting wireless for wire-line phones,’ notes Rebecca Arbogast, an
10 analyst with Legg Mason.” Finally, common sense tells us that demand for a service
11 greatly increases once the service becomes available.

12 **Q. IS WESTERN WIRELESS PROVIDING LNP IN MISSOURI?**

13 A. Yes. We have upgraded our network, implemented new processes, systems, and
14 hired supporting resources to implement LNP in Missouri. In other words, we have
15 absorbed the costs of implementing LNP under our FCC obligations. Further, we
16 believe it is unfair that carriers who we compete with, that are similarly obligated,
17 would be exempted from their obligations and thereby limit our ability to recoup the
18 LNP investments we have made by restricting our opportunity to leverage those
19 investments in a competitive marketplace.

20 **Q. HAS KLM MET THE PUBLIC INTEREST STANDARD FOR GRANT OF A SUSPENSION OF**
21 **LNP OBLIGATIONS?**

²⁹ “Number Portability Adds to Wireline Telecom Sector’s Perfect Storm,” Adam Thierer, Director of Telecommunication Studies, Cato Institute, Issue 66, November 20, 2003.

1 A. No. The public interest would not be served by suspending KLM's LNP obligations.
2 Section 251(f)(2) of the Act requires the Commission to determine that suspension of
3 a carrier's LNP obligations would be "consistent with the public interest,
4 convenience, and necessity."³⁰ The provision of LNP by LECs is a critical
5 component of a competitive local telephone market. Rural consumers are
6 increasingly choosing wireless service for their telecommunications needs and may
7 choose to port their wireline number to Western Wireless upon the implementation of
8 number portability as mandated by the Federal Communications Commission. The
9 FCC has observed that the inability of customers to retain their telephone numbers
10 when changing local service providers hampers the development of local competition:

11 Section 251(b)(2) removes a significant barrier to competition by
12 ensuring that consumers can change carriers without forfeiting their
13 existing telephone numbers.³¹

14 The fact is, number portability has proven to be an enabler of competition wherever it
15 has been implemented. The bona fide request process for local number portability
16 has led to an opportunity for increased competition in rural Missouri markets on May
17 24, 2004, (i.e., the ability of a wireless carrier to compete for service in areas that
18 have not previously been exposed to competition). The implementation of LNP is
19 intended to serve the important public interests of improved choice and competition
20 for consumers.

21 **Q. WHAT STANCE HAS THE FCC STAFF TAKEN WITH RESPECT TO PETITIONERS'**
22 **POSITIONS?**

³⁰ 47 U.S.C. § 251(f)(2)(B).

³¹ Third LNP Order, 13 FCC Rcd 11701, 11702-04 ¶¶ 3-4 (1998).

1 A. Speaking at a forum on LNP issues, Wireless Bureau Assistant Chief David Firth said
2 that the volume of actual number porting would not be the measure of success, but
3 giving customers the option to port was most important. He indicated that carriers
4 outside of the 100 largest MSA's should be testing and preparing for the May 24,
5 2004 LNP deadline. Responding to questions, Mr. Firth indicated that rating and
6 routing issues between carriers are not porting issues and are therefore not a valid
7 reason for refusing to port.³²

8 VII. CONCLUSION

9 Q. PLEASE SUMMARIZE YOUR TESTIMONY.

10 KLM has not provided compelling evidence that the status of their switch platform is
11 a technical constraint to the implementation of local number portability. KLM has
12 not met the standard that would lead one to conclude the economic impact is unduly
13 burdensome. Nor has KLM demonstrated that the implementation of number
14 portability would conflict with the public interest and the competitive choice
15 guidelines set by the FCC and this Commission.

16 The Commission should reject KLM arguments for delayed implementation,
17 deny their suspension request, and force KLM to implement LNP consistent with
18 obligations arising from receipt of a bona fide request.

19 Q. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?

20 A. Yes, it does.

³² See Washington Watch, NECA, March 18, 2004 – attached as Exhibit RW-5.