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November 19, 2003

NOV 19 2003

Missouri Public  
Service Commission

Dale Hardy Roberts  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, MO 65102

**Re: Petition for Suspension of FCC Requirement to Implement Number Portability and Request for Expedited Treatment**

Dear Mr. Roberts:

Enclosed for filing on behalf of Cass County Telephone Company, Citizens Telephone Company of Higginsville, Missouri Inc., Green Hills Telephone Corporation, KLM Telephone Company and Lathrop Telephone Company, please find an original and eight (8) copies of a Petition for Suspension and Motion for Expedited Treatment.

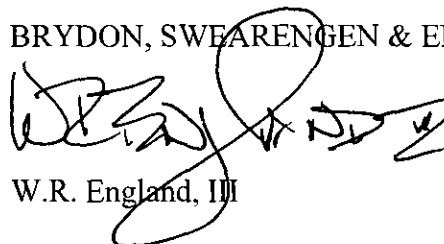
Would you please see that this filing is brought to the attention of the appropriate Commission personnel.

I thank you in advance for your cooperation in this matter.

Sincerely yours,

BRYDON, SWEARENGEN & ENGLAND P.C.

By:



W.R. England, III

WRE/lar

Enclosure

cc: General Counsel  
Office of the Public Counsel

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSOURI

FILED<sup>2</sup>

NOV 19 2003

Missouri Public  
Service Commission

Petition for Suspension of the Federal )  
Communications Commission Requirement )  
to Implement Number Portability )

Case No. \_\_\_\_\_

**Petition for Suspension and  
Motion for Expedited Treatment**

COMES NOW Cass County Telephone Company (Cass County), Citizens Telephone Company of Higginsville, Missouri Inc. (Citizens), Green Hills Telephone Corporation (Green Hills), KLM Telephone Company (KLM), and Lathrop Telephone Company (Lathrop), (hereinafter "Petitioners") and pursuant to 251(f) of the Telecommunications Act of 1996 hereby petition the Missouri Public Service Commission (Commission) for a suspension of the Federal Communications Commission's (FCC) November 10, 2003 *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* ("Order") insofar as it requires Petitioners to implement local number portability ("LNP") by November 24, 2003. In support of this Petition and Request, Petitioners state to the Commission as follows:

**SUMMARY**

1. On November 10, 2003, the FCC issued its *Memorandum Opinion and Order* in CC Docket No. 95-116 regarding wireline-to-wireless (i.e. intermodal) number portability. The *Order* concludes that, as of November 24, 2003, local exchange carriers (LECs) providing service within the Nation's 100 largest Metropolitan Statistical Areas (MSAs) must port numbers to wireless carriers where the requesting wireless carrier's "coverage area" overlaps the geographic location of the rate center in which

the customer's wireline number is provisioned. Petitioners seek suspension and waiver of this decision because it is technically infeasible for them to comply with the *Order* by November 24, 2003.

2. The FCC's November 10, 2003 *Order* establishes a November 24, 2003 deadline for local exchange carriers operating in the largest 100 Metropolitan Statistical Areas (MSAs) to provide wireline-to-wireless number portability. However, the FCC's *Order* also recognized that this requirement places a real burden on small rural companies. At the present time, none of the Petitioners are LNP capable. In addition, the FCC's *Order* leaves unclear a number of the obligations and responsibilities related to wireline-to-wireless number portability. Given the short amount of time that Petitioners would have to deploy LNP under these deadlines and the lack of FCC guidance with respect to important deployment issues, Petitioners believe that an expedited suspension order is necessary to prevent Petitioners from the possibility of being in violation of FCC rules and requirements.

3. In addition to the numerous technical issues that make deployment of LNP substantially more difficult for small rural telephone companies, there are important unresolved intermodal porting issues (porting numbers between wireline carriers and wireless carriers) associated with the deployment of number portability as noted in the FCC's *Order*. Absent further guidance from the FCC on how to resolve these issues, it is not technically feasible for Petitioners to deploy LNP by the November 24, 2003 deadline.

## PETITION FOR SUSPENSION

4. Cass County is a Maryland Limited Partnership with its principal office and place of business located at:

P.O. Box 398  
260 West First Street  
Peculiar, MO 64078

A certificate of good standing from the Missouri Secretary of State was filed by Cass County in Case No. TC-2002-1077, and that information is still current and correct. Cass County's service area includes parts of Cass County, Missouri, which is a part of the Kansas City MSA. Cass County has no pending actions or final, unsatisfied judgments or decisions against it which involve customer service or rates, which action, judgment or decision has occurred within the last three years from the date of this Petition. Cass County has no annual report or assessment fees overdue. Cass County serves approximately 8,000 access lines. The Affidavit of Robert Osborne, the Budget & Recovery Manager of Cass County, verifying the accuracy of the statements contained in paragraph 4 is marked as Appendix A and attached hereto.

5. Citizens is a Missouri corporation with its principal office and place of business located at:

P.O. Box 737  
1905 Walnut Street  
Higginsville, MO 64037-0737

A certificate of good standing from the Missouri Secretary of State was filed by Citizens in Case No. TC-2002-1077, and that information is still current and correct. Citizens' service area includes parts of Lafayette County, Missouri, which is a part of the Kansas City MSA. Citizens has no pending actions or final, unsatisfied judgments or decisions

against it which involve customer service or rates, which action, judgment or decision has occurred within the last three years from the date of this Petition. Citizens has no annual report or assessment fees overdue. Citizens serves approximately 4,431 access lines. The Affidavit of Brian L. Cornelius, President of Citizens, verifying the accuracy of the statements contained in paragraph 5 is marked as Appendix B and attached hereto.

6. Green Hills is a Missouri corporation with its principal office and place of business located at:

P.O. Box 227  
7926 N.W. State Route M  
Breckenridge, MO 64625

A certificate of good standing from the Missouri Secretary of State was filed by Green Hills in Case No. TC-2002-1077, and that information is still current and correct. Green Hills' service area includes parts of Ray County, Missouri, which is a part of the Kansas City MSA. Green Hills has no pending actions or final, unsatisfied judgments or decisions against it which involve customer service or rates, which action, judgment or decision has occurred within the last three years from the date of this Petition. Green Hills has no annual report or assessment fees overdue. Green Hills serves approximately 3,872 access lines. The Affidavit of Renee' Reeter, Controller of Green Hills, verifying the accuracy of the statements contained in paragraph 6 is marked as Appendix C and attached hereto.

7. KLM is a Missouri corporation with its principal office and place of business located at:

P.O. Box 30

616 East Park Avenue  
Rich Hill, MO 64779

A certificate of good standing from the Missouri Secretary of State was filed by KLM in Case No. TC-2002-1077, and that information is still current and correct. KLM's service area includes parts of Bates County, Missouri, which is a part of the Kansas City MSA. KLM has no pending actions or final, unsatisfied judgments or decisions against it which involve customer service or rates, which action, judgment or decision has occurred within the last three years from the date of this Petition. KLM has no annual report or assessment fees overdue. KLM serves approximately 1,632 access lines. The Affidavit of Bruce Copsey, Secretary of KLM, verifying the accuracy of the statements contained in paragraph 7 is marked as Appendix D and attached hereto.

8. Lathrop is a Missouri corporation with its principal office and place of business located at:

601 Oak  
P.O. Box 167  
Princeton, MO 64673

A certificate of good standing from the Missouri Secretary of State was filed by Lathrop in Case No. TC-2002-1077, and that information is still current and correct. Lathrop's service area includes parts of Clinton County, Missouri, which is a part of the Kansas City MSA. Lathrop has no pending actions or final, unsatisfied judgments or decisions against it which involve customer service or rates, which action, judgment or decision has occurred within the last three years from the date of this Petition. Lathrop has no annual report or assessment fees overdue. Lathrop serves approximately 1500 access lines. The Affidavit of Rod Cotton, Director of Business Development & Regulatory of

Lathrop, verifying the accuracy of the statements contained in paragraph 8 is marked as Appendix E and attached hereto.

9. Section 251(f)(2) of the Act allows a rural local exchange carrier (LEC) with fewer than two percent of the Nation's subscriber lines installed in the aggregate nationwide to petition a state commission for a suspension or modification of the application of a requirement or requirements found in Subsections (b) and (c) of Section 251.<sup>1</sup> Subsection (b)(2) of Section 251 contains the duty to provide number portability in accordance with FCC requirements.<sup>2</sup>

10. Petitioners are subject to the Commission's jurisdiction, and Petitioners meet the definition of a "rural telephone company" as defined in Section 3 of the federal Telecommunications Act ("the Act").<sup>3</sup> The access lines of each Petitioner are well below the two percent of the approximately 188 million access lines in the United States.<sup>4</sup> Therefore, Petitioners are eligible to petition the Missouri Commission.

11. Section 251(b)(2) of the Telecommunications Act of 1996 (the Act) requires all local exchange carriers (LECs) to provide "number portability." Number portability is defined as "the duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission." It is important to note that the porting of a number also involves the transport of the associated call. Thus,

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<sup>1</sup> 47 U.S.C. §251(f)(2).

<sup>2</sup> 47 U.S.C. §251(b)(2).

<sup>3</sup> 47 U.S.C. §153(37).

<sup>4</sup> Source: FCC's *Trends in Telephone Service Report* released on August 7, 2003.

when a calling party dials a ported number, a data base is queried and the originating switch is advised that the number has been ported to another carrier. The associated call is then transported or routed to that other carrier for termination to the called party. In a series of decisions (i.e. wireline to wireline) and rules, the FCC has established guidelines for the porting of numbers by wireline carriers. Of significance is the fact that the FCC's rules limit a wireline carrier's obligation to port numbers to those customers within the wireline carrier's rate center.<sup>5</sup> In other words, wireline carriers are not required to port numbers beyond their respective rate centers or the area within which they provide local exchange calling. The porting of numbers beyond a wireline carrier's rate center has been referred to as "location portability."

12. Also of significance is the fact that the FCC's rules do not require rural carriers (such as Petitioners) to implement local number portability (LNP) until they had received a bonafide request (BFR) by a requesting carrier. Once a rural carrier receives a BFR to implement LNP, it has six months within which to make the necessary investments, install equipment, and make administrative changes to become LNP capable.

13. The FCC has also determined that wireless carriers should provide LNP. In a series of decisions, the FCC has extended the deadline for wireless carriers located in the 100 largest MSAs (Metropolitan Statistical Area) to be LNP capable to November 24, 2003. As wireless and wireline carriers began to discuss the porting of numbers

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<sup>5</sup> A "rate center" is a specific geographical location within an exchange area from which mileage measurements are determined for the application of rates between exchange areas.



between their respective networks (known as "intermodal" porting) they identified distinct differences of opinion regarding, among other things, the extent of wireline carriers' obligation to provide LNP. Specifically, wireline carriers objected to the porting of numbers (and associated calls) to a wireless carrier who is not directly connected with the wireline carrier and who does not have numbering resources (i.e., NPA, NXXs) within the same rate center as the wireline carrier. This, in the opinion of the wireline carriers, constituted location portability which FCC rules did not require. This issue was specifically brought to the FCC's attention in a Petition for Declaratory Ruling filed January 13, 2003, by the Cellular Telecommunications Industry Association (CTIA). Comments were received from both the wireless and wireline industry. When the FCC failed to act on CTIA's Petition, CTIA filed a Second Petition for Declaratory Ruling on May 13, 2003.

14. In approximately May and June of 2003, Verizon Wireless and/or Sprint PCS sent correspondence to Petitioners requesting that they provide LNP by November 24, 2003. Petitioners generally responded that they were not currently capable of providing LNP and, more importantly, that they did not consider this correspondence to constitute a BFR because the requesting carriers were seeking location portability, i.e., the porting of numbers between rate centers. Neither Verizon Wireless nor Sprint PCS is interconnected with any of the Petitioners. Neither Verizon Wireless nor Sprint PCS has any number resources associated with any of Petitioners' rate centers. Petitioners advised Verizon Wireless and/or Sprint PCS that there were no means (i.e., facilities) by which Petitioners could port a number (and transport the associated call) from their facilities to the facilities of Verizon Wireless and/or Sprint PCS given this lack of

connectivity and local presence.

15. On November 10, 2003, in response to the CTIA Petitions for Declaratory Ruling, the FCC, for the first time, "clarified" that its rules regarding wireline to wireline number portability were not applicable to intermodal porting. As a result, as of November 24, 2003, a mere fourteen days later, LECs must port numbers to a requesting wireless carrier where the wireless carrier's coverage area overlaps the geographic location of the rate center to which the number is assigned, even though the wireless carrier's point of presence is in another rate center and has no direct interconnection with the wireline carrier. The FCC further found that wireless carriers need not enter into Section 251 Interconnection Agreements with wireline carriers solely for the purpose of porting numbers. In other words, the FCC has for the first time clarified that its rules prohibiting location portability between wireline carriers do not apply to wireline to wireless LNP.

16. As of November 24, 2003, wireline carriers located within the 100 largest MSAs are required to port numbers to wireless carriers who do not have a direct interconnection with the wireline carrier and who do not have numbering resources (i.e., NPA NXXs) assigned to the rate center served by the wireline carrier.<sup>6</sup> While the FCC recognized that there were legitimate issues with respect to how numbers ported from a wireline carrier to a wireless carrier will be routed where there is no direct

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<sup>6</sup> The Commission determined that for wireline carriers operating in areas outside of the 100 largest MSAs that the requirement that these carriers port numbers to wireless carriers that do not have a point of interconnection or numbering resources in the rate center where the customers wireless number is provisioned is waived until May 24, 2003.

interconnection, it declined to address these issues at this time. The FCC also recognized that there may be other regulatory requirements that prevent wireline carriers from porting wireless numbers when the rate center associated with the number and the customer's physical location do not match. However, the FCC declined to resolve these issues and requested further comment on them. Finally, the FCC even acknowledged that wireline carriers within the 100 largest MSAs who are required to port numbers to wireless carriers on and after November 24, 2003, may not be able to meet this deadline, but instead of addressing this real dilemma, simply invited them to file petitions for waiver.

17. Petitioners seek suspension and modification of the Act's porting requirements, as clarified by the FCC in its November 10, 2003 *Order*, because it is simply not technically feasible for them to comply with these new requirements in fourteen days.<sup>7</sup> As previously indicated, Petitioners are not presently LNP capable.<sup>8</sup> To become LNP capable will require a significant investment in central office switching equipment. Contracts with switch vendors will have to be executed, and equipment will have to be shipped, installed, and tested.

18. In addition, once a number has been ported all local calls must be routed to

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<sup>7</sup>Once Petitioners know what will be required of them in order to port numbers (and transport associated calls), they may very well seek further suspension and/or modification of the intermodal porting requirements if the costs of implementing LNP result in an undue economic burden on Petitioners and their customers.

<sup>8</sup>Lathrop does have LNP software in its switch, but it has not been activated. In all other respects, Lathrop is not LNP capable. For example, it has not contracted with a data base administrator, it has not made any administrative/back office changes and it has no means or facilities to port numbers and transport calls beyond its single rate center.

a data base to determine if the number(s) called has been ported. Petitioners will have to contract with a third party vendor to provide this data base query. Petitioners will also have to implement changes in their office administration, including service order processing, in order to process customer requests for porting. Finally, to the extent that Petitioners are required to port numbers (and transport associated calls) beyond their rate center(s) to other rate centers where wireless carriers have established their points of presence, this will entail facilities that Petitioners do not currently have in place. Petitioners will either need to establish facilities between their exchanges and the wireless carriers point of presence or arrange with an intermediate carrier to transport the call. None of these facilities and/or arrangements currently exist and this will obviously require time to negotiate and establish. To date, no customer of Petitioners has requested that their local telephone number be ported to a wireless carrier. In addition, neither Sprint PCS nor Verizon Wireless has identified any current subscriber of petitioners desiring LNP.

19. Petitioners believe that important contractual and compensation issues associated with porting outside the rate center would need to be resolved to accomplish intermodal porting. At present, the FCC has not provided guidance on any of these important issues, and as a result, Petitioners have no information about how to comply with the November 24, 2003 deadline for implementing intermodal number portability.

20. Although the FCC's *Order* recognizes the problems associated with many of these issues, such as the impact of designating different routing and rating points, the *Order* does not resolve them. For example, the *Order* clarifies that ported numbers must remain rated to their original rate center. However, the *Order* also notes that the routing

will change when a number is ported. The *Order* observed that several wireline carriers have expressed concern about the transport costs associated with routing calls to ported numbers. (§39) The *Order* also cites the arguments filed by NECA and NTCA that when wireless carriers establish a point of interconnection outside of a rural LEC's serving area: (1) a disproportionate burden is placed on rural LECs to transport originating calls to the interconnection points; and (2) requiring wireline carriers to port telephone numbers to out-of-service area points of interconnection could create an even bigger burden. Nevertheless, the *Order* finds that these concerns "are outside the scope of this order." (§39) The *Order* states that its ruling is "limited to ported numbers that remain rated in their original rate centers."

21. Given the fact that the FCC issued its decision on November 10, 2003, substantially altering the obligations of wireline carriers with respect to intermodal LNP, the fact that Petitioners have no present ability to provide LNP or to provide for the porting of numbers and associated calls to the wireless carriers' facilities and the fact that no customer has, to date, requested that their number be ported, Petitioners believe it is appropriate for the Commission to issue an order suspending the FCC's requirement that they implement local number portability on November 24, 2003. If the Commission does not grant Petitioners' Petition for Suspension, Petitioners will be in violation of the FCC order, because they are not technically able to meet the requirements of the order. Additionally, since the FCC has not yet set guidelines for intermodal porting, granting of the Petition for Suspension will be consistent with the public interest, convenience and necessity.

## **MOTION FOR EXPEDITED TREATMENT**

22. Pursuant to 4 CSR 240-2.080(16), Petitioners seek a Commission order on or before November 21, 2003, as this is the last business day before the November 24, 2003 deadline. The FCC's *Order* imposes requirements that appear to be substantially different from the prior LNP rules, and it is physically impossible for Petitioners to comply with the FCC's *Order* within the two-week time period ordered by the FCC. Therefore, granting the Petition would prevent Petitioners from being in violation of FCC *Orders* and avoid increased costs for rural customers. Granting the Petitioners' request will allow Petitioners more time to implement the technical requirements for LNP and provide more time for the FCC to clarify the LNP requirements for small, rural telephone companies. There will be no negative effect on Petitioners' customers or the general public. To Petitioners' knowledge, none of Petitioners' customers have requested porting. This pleading was filed as soon as it could have been after the FCC's November 10, 2003 decision.

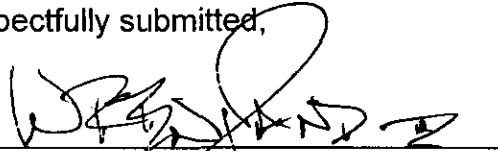
## **CONCLUSION**

23. The *Order's* requirement to provide number portability by November 24, 2003 is technically infeasible for Petitioners at this time. In addition, the *Order* lacks federal guidance on the intermodal porting issues discussed above. Therefore, Petitioners respectfully request that the Missouri Commission grant Petitioners a temporary suspension of the *Order's* intermodal porting obligations until May 24, 2004, when the FCC envisions other small rural carriers outside the 100 largest MSAs will begin implementing number portability. This suspension, if granted, will also ensure

that Petitioners' rural customers are not burdened with unnecessary expenditures to meet intermodal porting requirements that are uncertain at the present time.

Respectfully submitted,

By



W.R. England, III                      Mo.    #23975  
Sondra B. Morgan                    Mo.    #35482  
Brian T. McCartney                  Mo.    #47788  
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(573) 635-7166  
(573) 634-7431 (FAX)

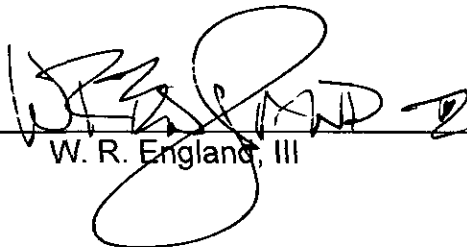
Attorneys for the Petitioners

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document was sent by U.S. Mail, postage prepaid, or hand-delivered on this 17<sup>th</sup> day of November, 2003, to the following parties:

General Counsel  
Missouri Public Service Commission  
P.O. Box 360  
Jefferson City, Missouri 65102

Michael F. Dandino  
Office of the Public Counsel  
P.O. Box 7800  
Jefferson City, Missouri 65102

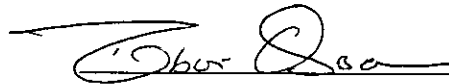


W. R. England, III



**VERIFICATION**

I, ROBERT OSBORN, the Budget & Regulatory Mgr. of Cass County Telephone Company, LP, hereby verify and affirm that I have read the foregoing PETITION FOR SUSPENSION AND MOTION FOR EXPEDITED TREATMENT and that the statements contained herein are true and correct to the best of my information and belief.

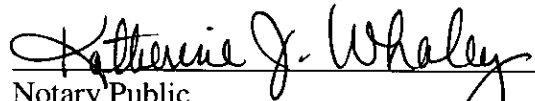
  
[NAME]

STATE OF MISSOURI)

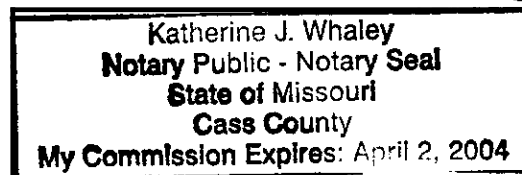
) ss

COUNTY OF ) CASS

Subscribed and sworn to me, a Notary Public, on this 17<sup>th</sup> day of NOVEMBER, 2003.

  
Notary Public

My Commission expires 04/02/04.



**VERIFICATION**

I, Brian L. Cornelius, the President of Citizens Telephone Company of Higginsville, Missouri, hereby verify and affirm that I have read the foregoing PETITION FOR SUSPENSION AND MOTION FOR EXPEDITED TREATMENT and that the statements contained herein are true and correct to the best of my information and belief.


  
[NAME]

STATE OF MISSOURI)

) ss

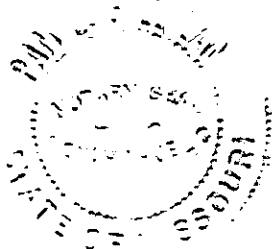
COUNTY OF )

Subscribed and sworn to me, a Notary Public, on this 17 day of November, 2003.

  
Notary Public

My Commission expires June 12, 2004

PAM L. GILLILAN  
Notary Public - State of Missouri  
Lafayette County  
My Commission Expires: June 12, 2004



## VERIFICATION

I, Renee' Reeter, the Controller of Green Hills Telephone Corporation, hereby verify and affirm that I have read the foregoing PETITION FOR SUSPENSION AND MOTION FOR EXPEDITED TREATMENT and that the statements contained herein are true and correct to the best of my information and belief.

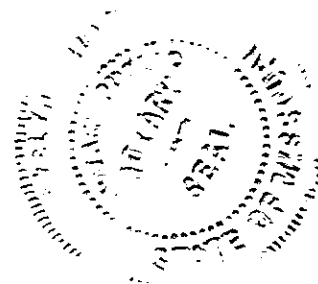
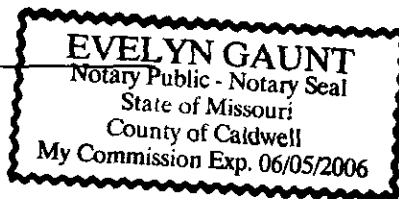
Rence' Reeter

STATE OF MISSOURI) ) ss  
COUNTY OF ) Caldwell

Subscribed and sworn to me, a Notary Public, on this 17th day of November,  
2003.

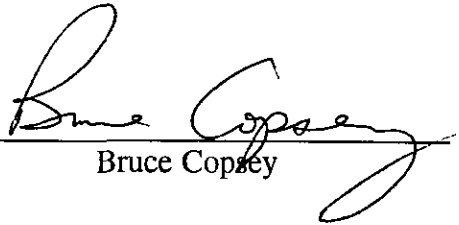
Ernesto Gaurt  
Notary Public

My Commission expires \_\_\_\_\_



VERIFICATION

I, Bruce Copsey, the Secretary of KLM Telephone Company, hereby verify and affirm that I have read the foregoing PETITION FOR SUSPENSION AND MOTION FOR EXPEDITED TREATMENT and that the statements contained herein are true and correct to the best of my information and belief.

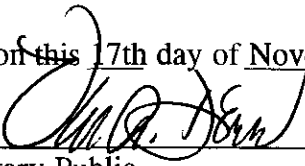
  
Bruce Copsey

STATE OF MISSOURI)

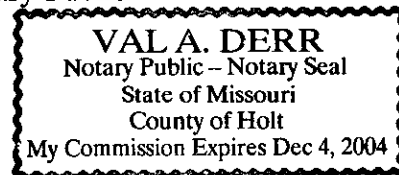
) ss

COUNTY OF HOLT)

Subscribed and sworn to me, a Notary Public, on this 17th day of November, 2003.

  
Notary Public

My Commission expires 12-04-2004



**VERIFICATION**

I, **Rod Cotton**, the Director of Business Development & Regulatory of Lathrop Telephone Company, hereby verify and affirm that I have read the foregoing PETITION FOR SUSPENSION AND MOTION FOR EXPEDITED TREATMENT and that the statements contained herein are true and correct to the best of my information and belief.

*Rod Cotton*  
Rod Cotton

STATE OF MISSOURI)

) ss

COUNTY OF MERCER)

Subscribed and sworn to me, a Notary Public, on this 17 day of Nov., 2003.

*Mary Pearl Scurlock*  
Notary Public *MARY PEARL SCURLOCK*

My Commission expires 4-24-07

